



APPLICATION ACCEPTED: October 18, 2012  
DATE OF PUBLIC HEARING: February 13, 2013\*  
\*Moved at the applicant's request  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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February 6, 2013

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-PR-069

### PROVIDENCE DISTRICT

**APPLICANTS/OWNERS:** Christopher A. Harris  
Abigail M. Harris

**LOCATION:** 2622 Shelby Lane, Falls Church, 22043

**SUBDIVISION:** Shrevewood

**TAX MAP:** 49-2 ((07)) 13

**LOT SIZE:** 13,735 square feet

**ZONING:** R-3

**ZONING ORDINANCE PROVISION:** 8-914 and 8-923

**SPECIAL PERMIT PROPOSALS:** To permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure with attached roofed deck to remain 2.4 ft. from a side lot line and 1.4 ft. from the rear lot line and to permit a fence greater than 4.0 ft. in height to remain in front yard of a corner lot.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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Rebecca Homer

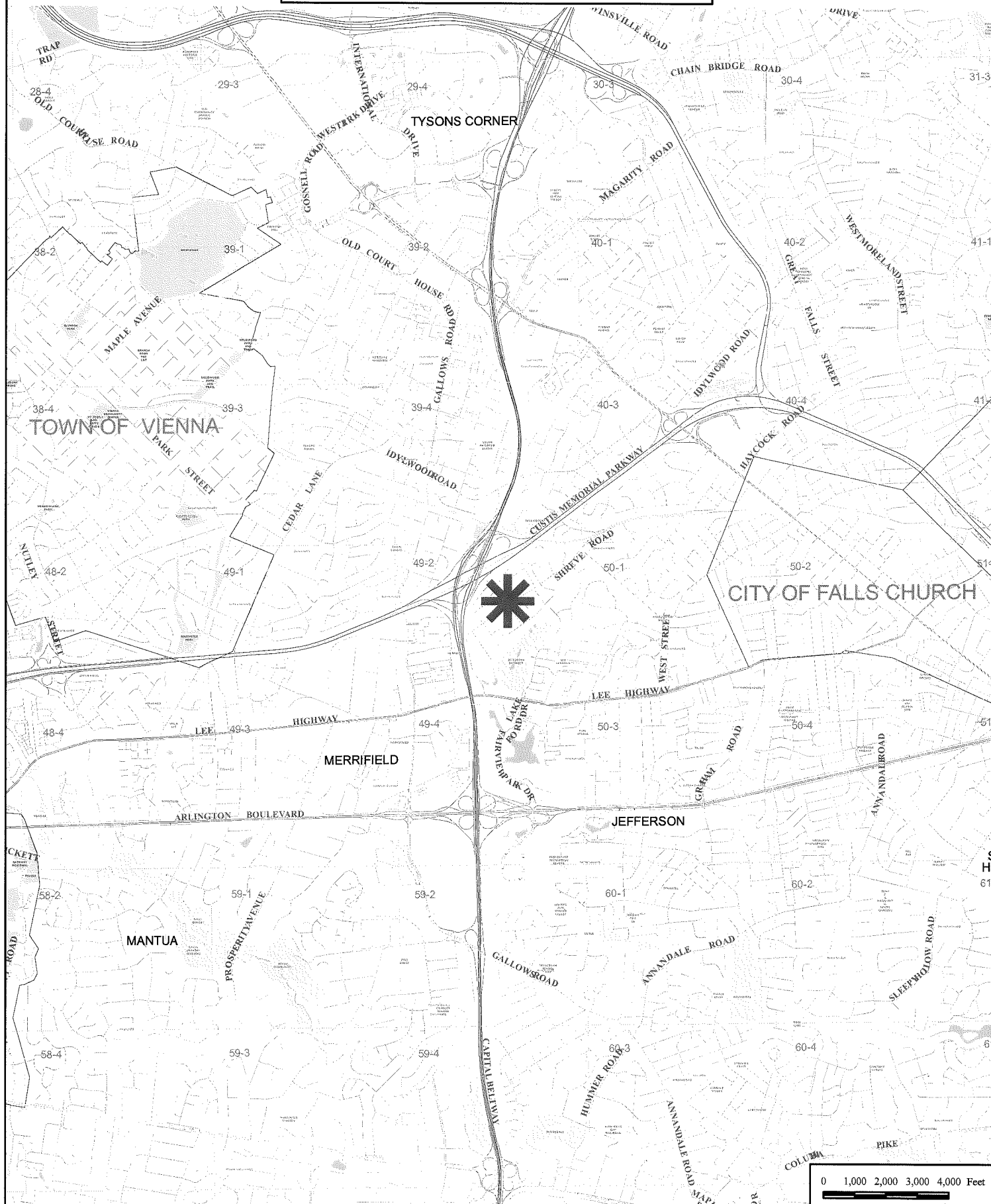
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).



**SP 2012-PR-069**  
CHRISTOPHER A. AND ABIGAIL M. HARRIS



# Special Permit

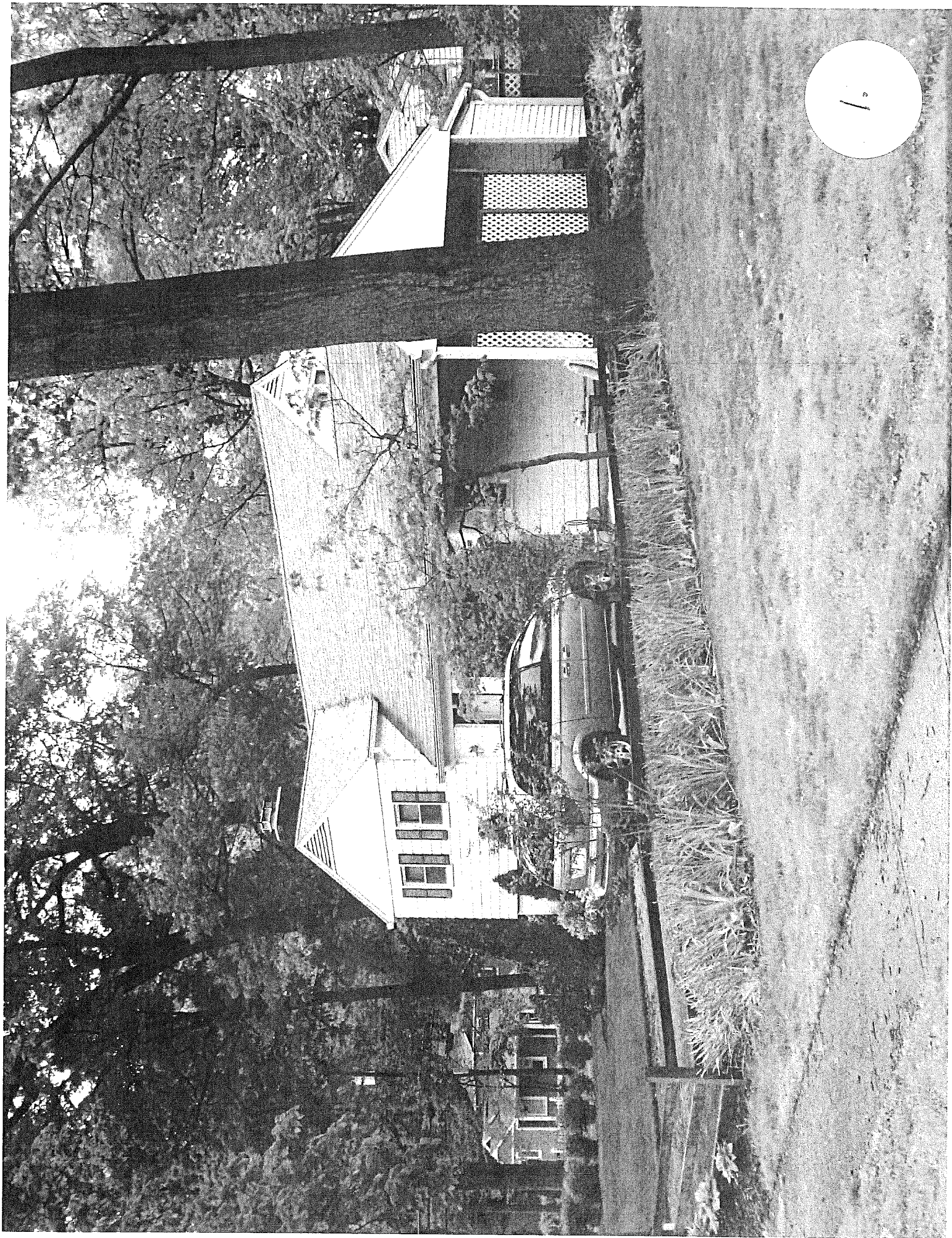
SP 2012-PR-069

CHRISTOPHER A. AND ABIGAIL M. HARRIS

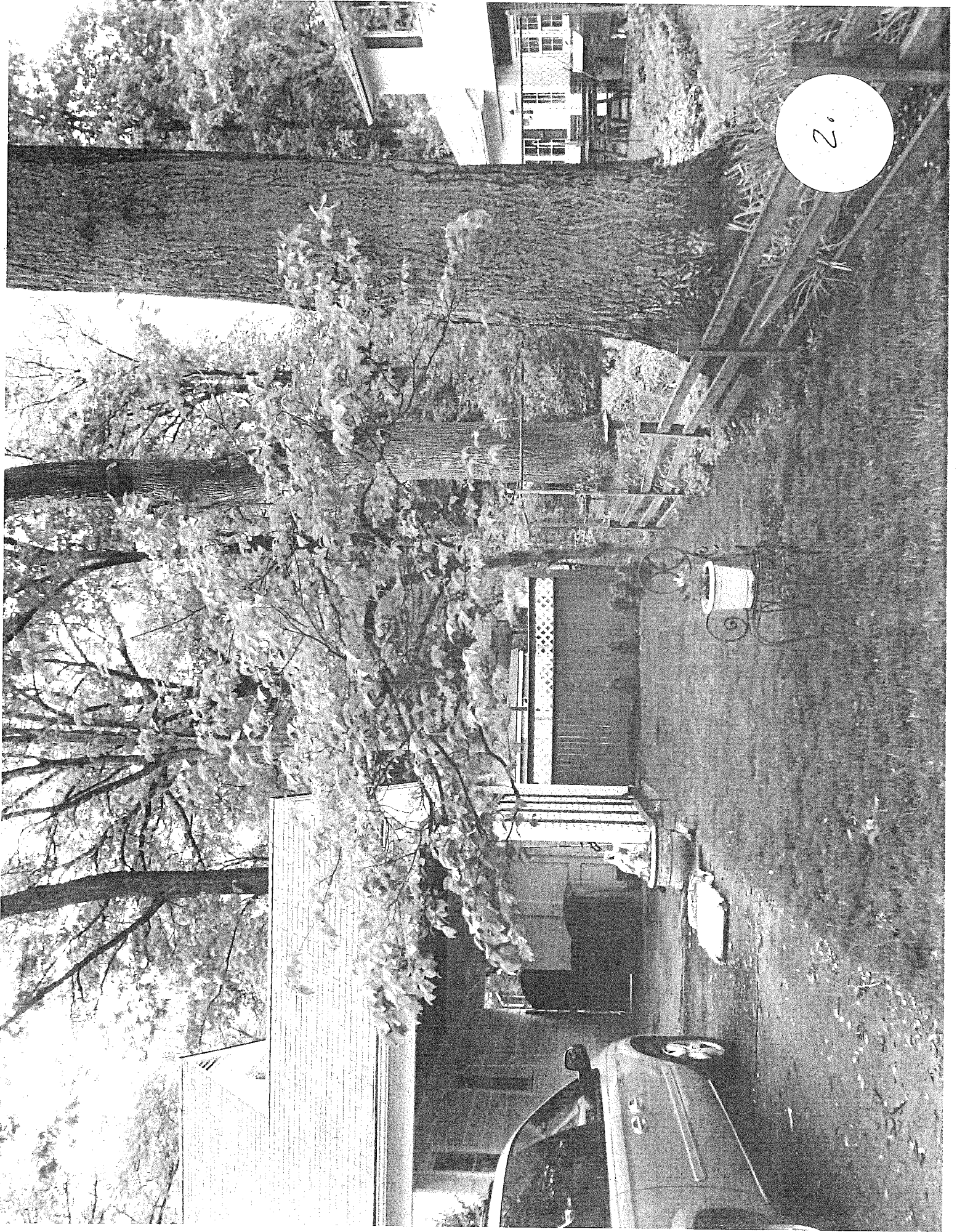








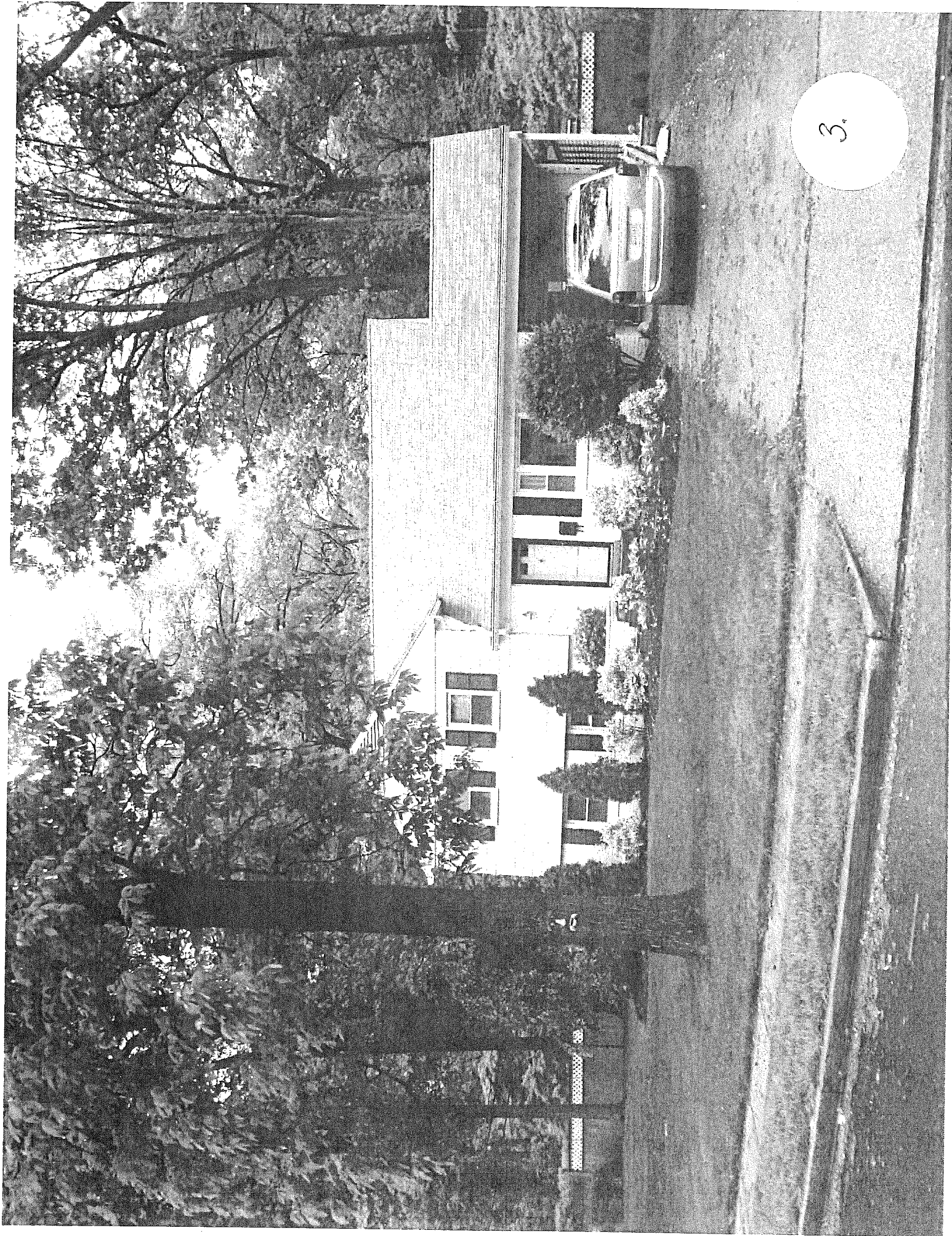




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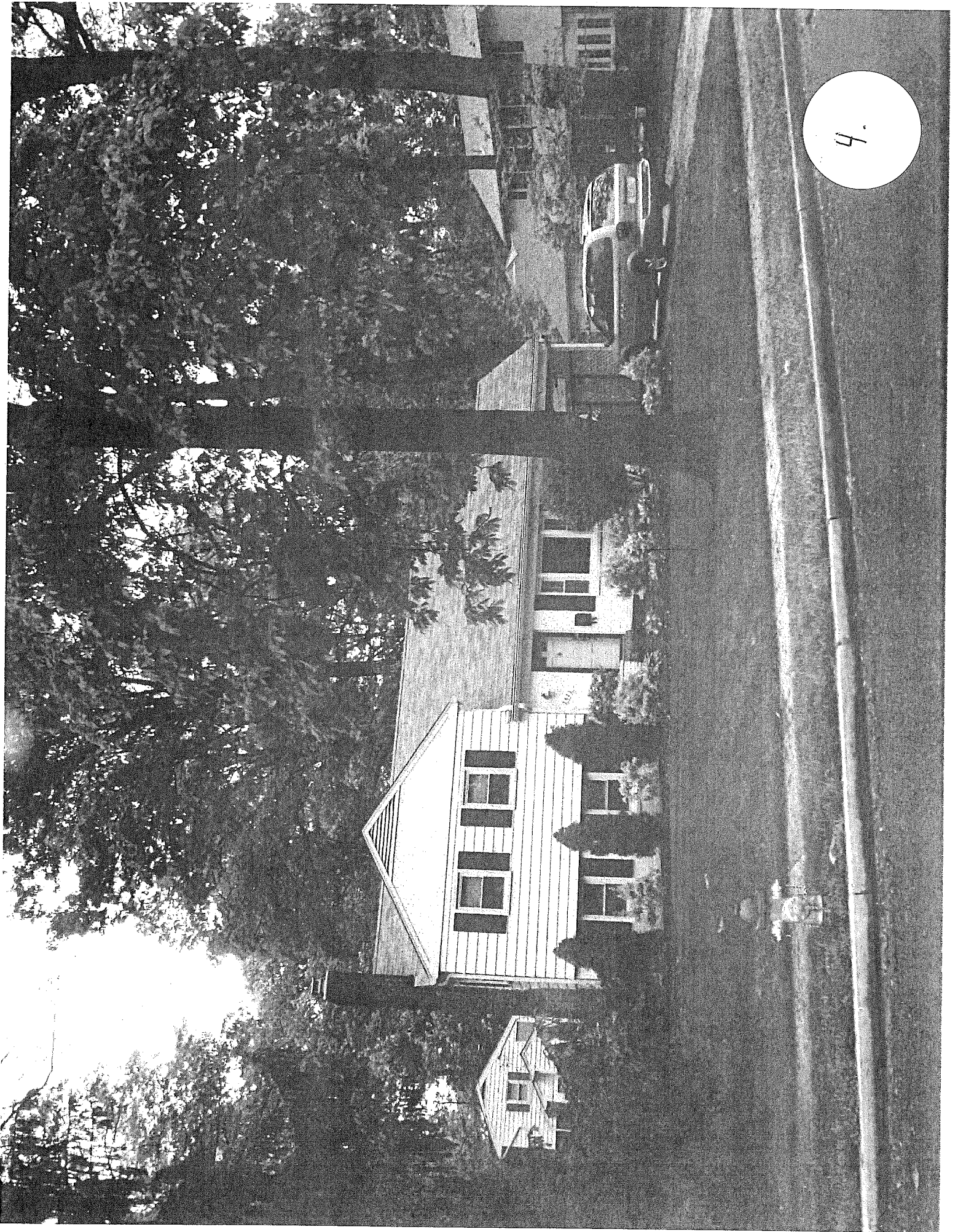


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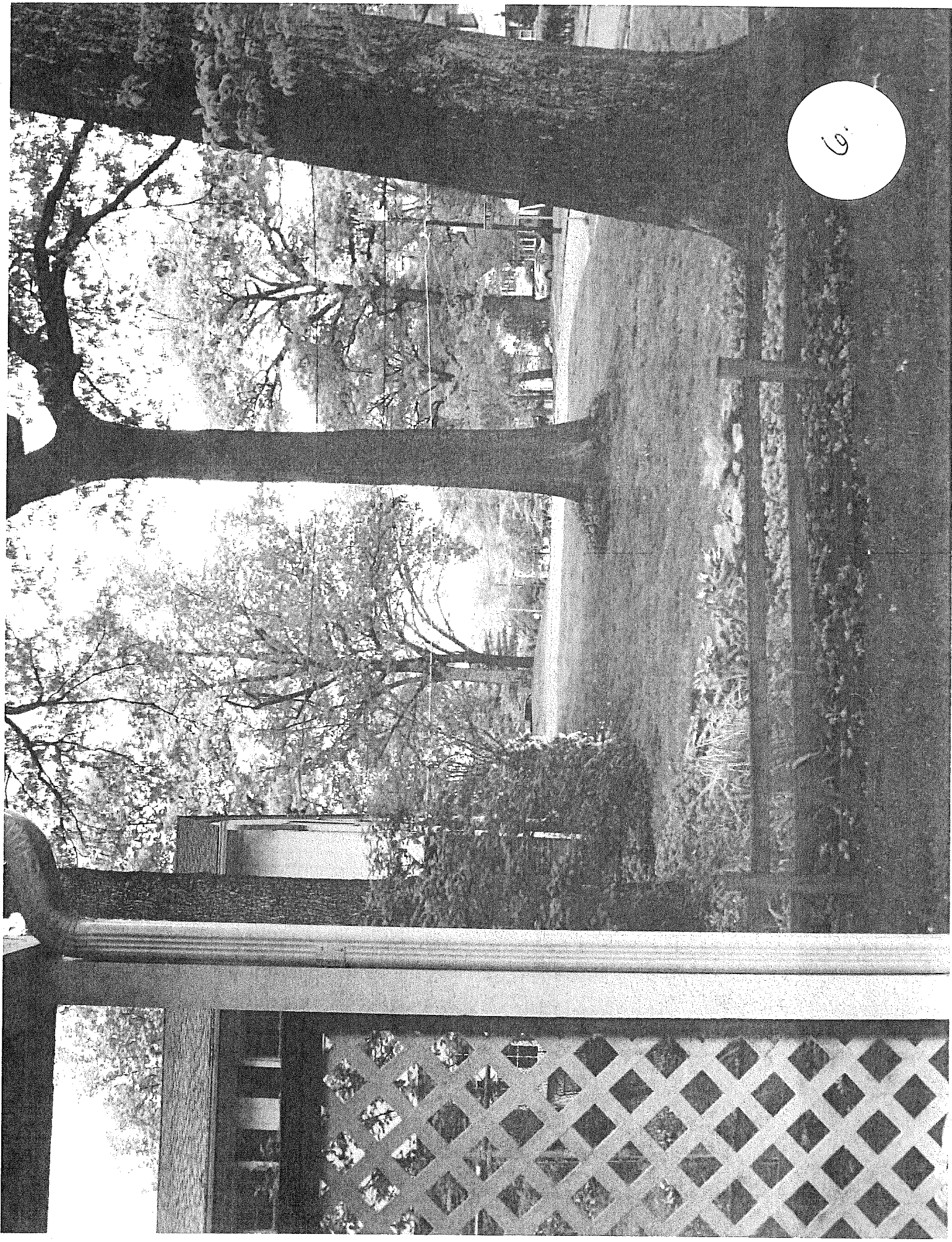






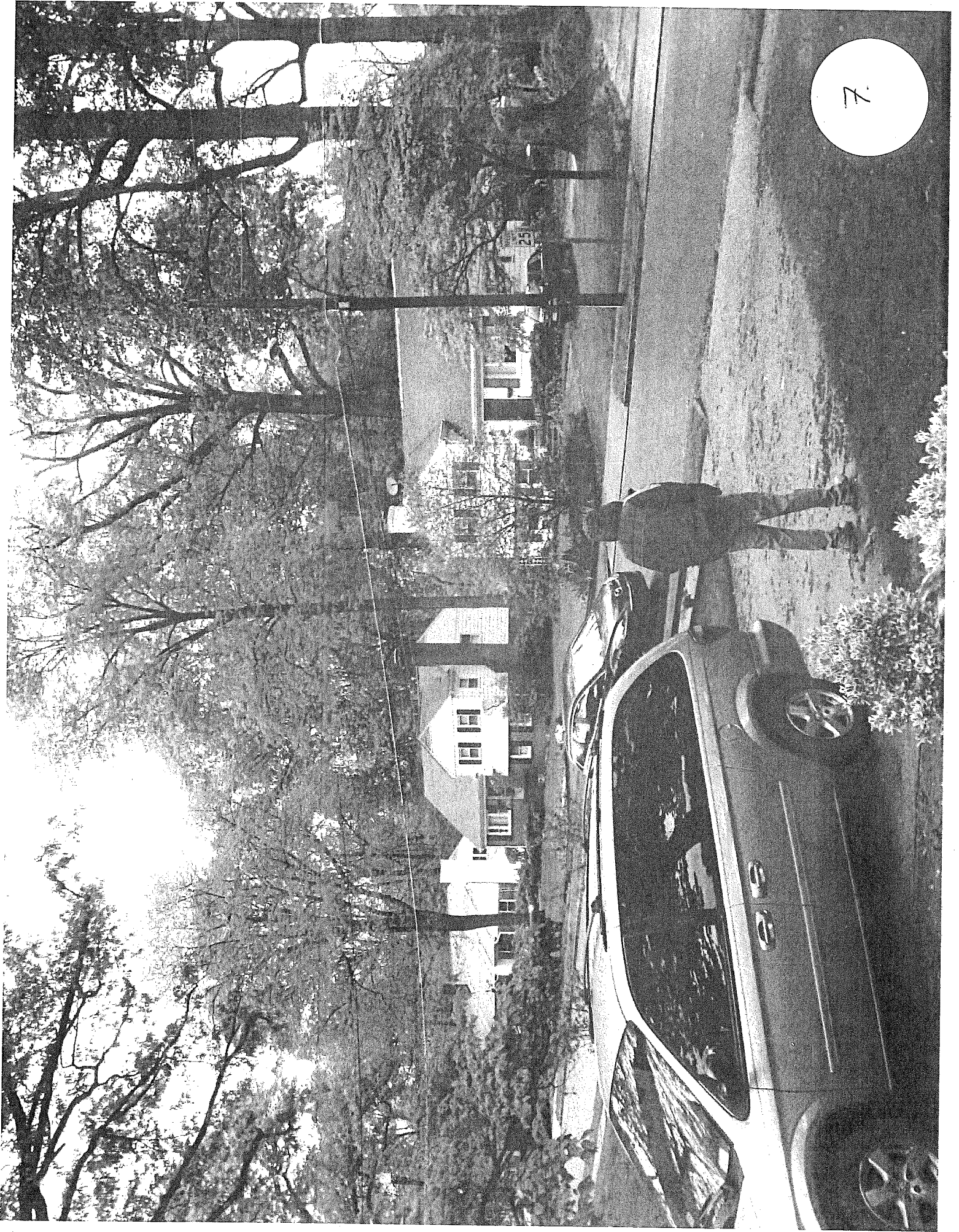


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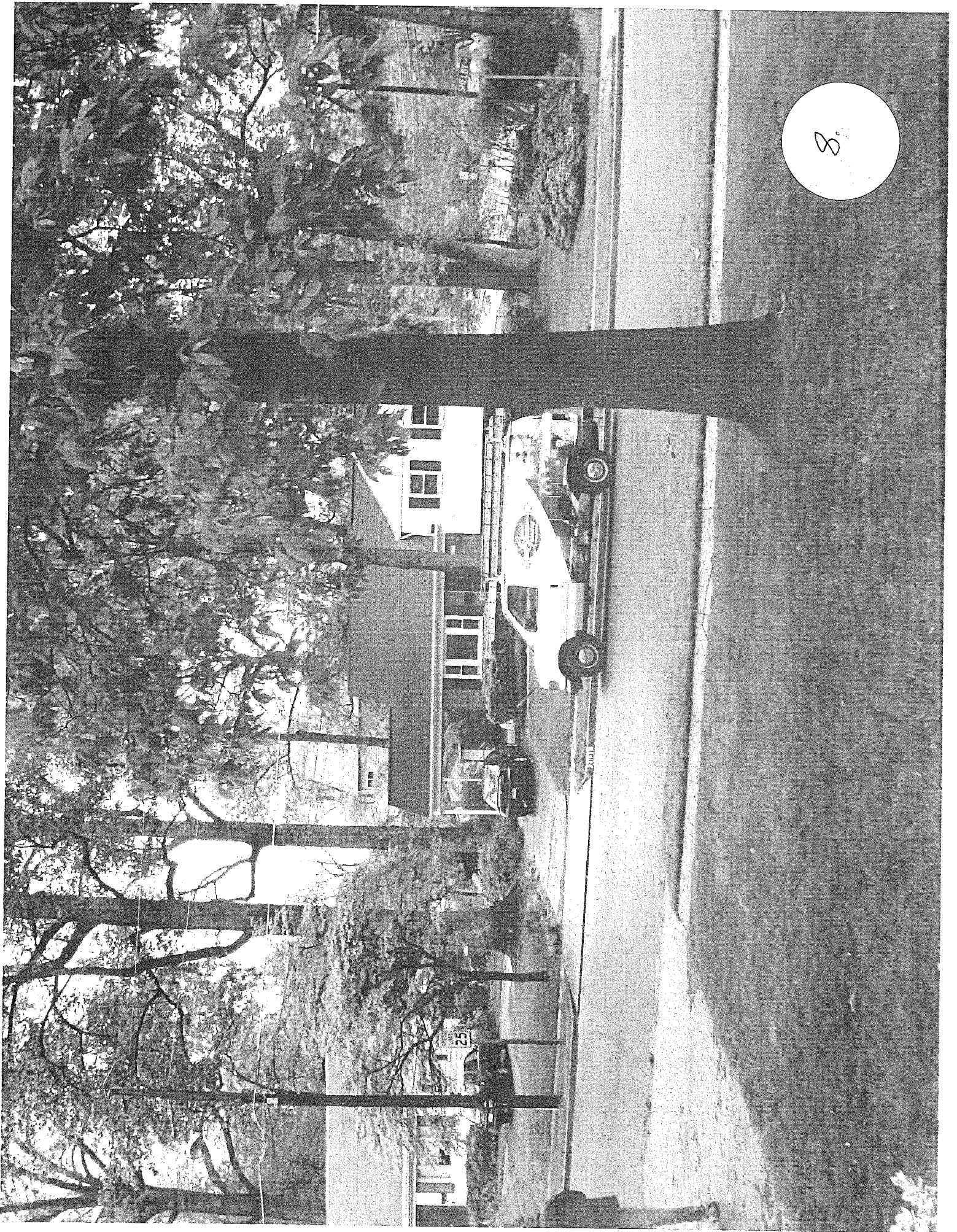


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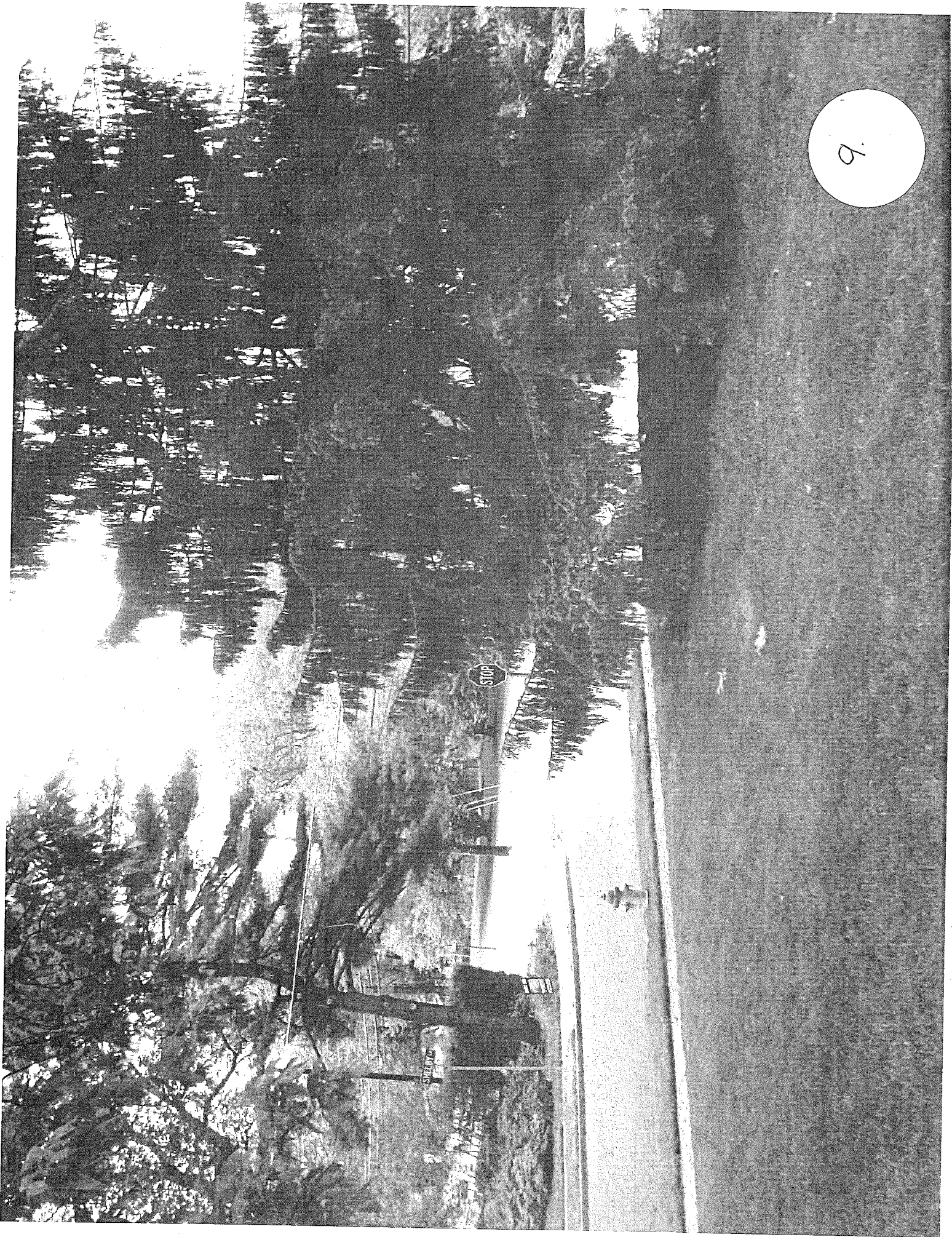


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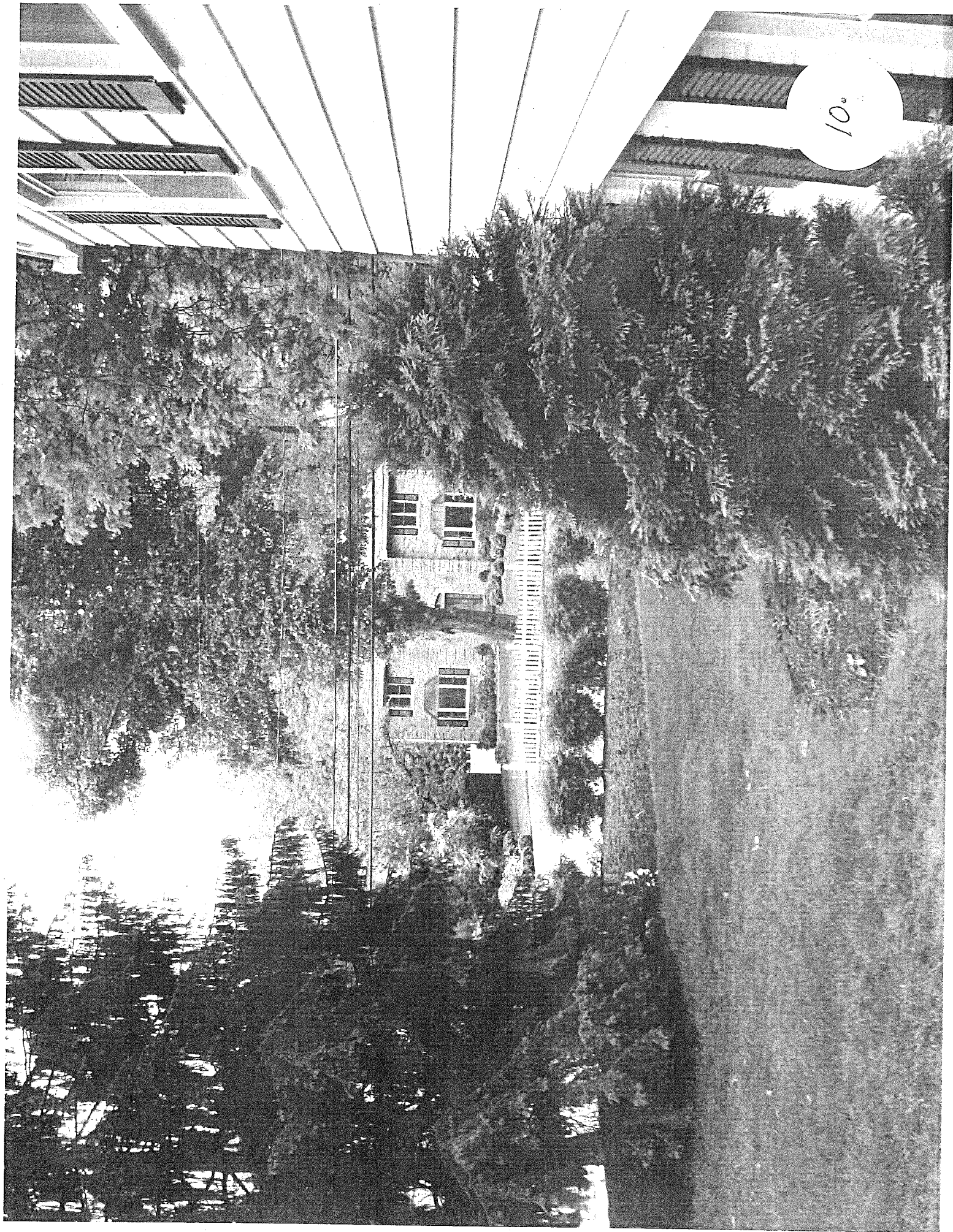




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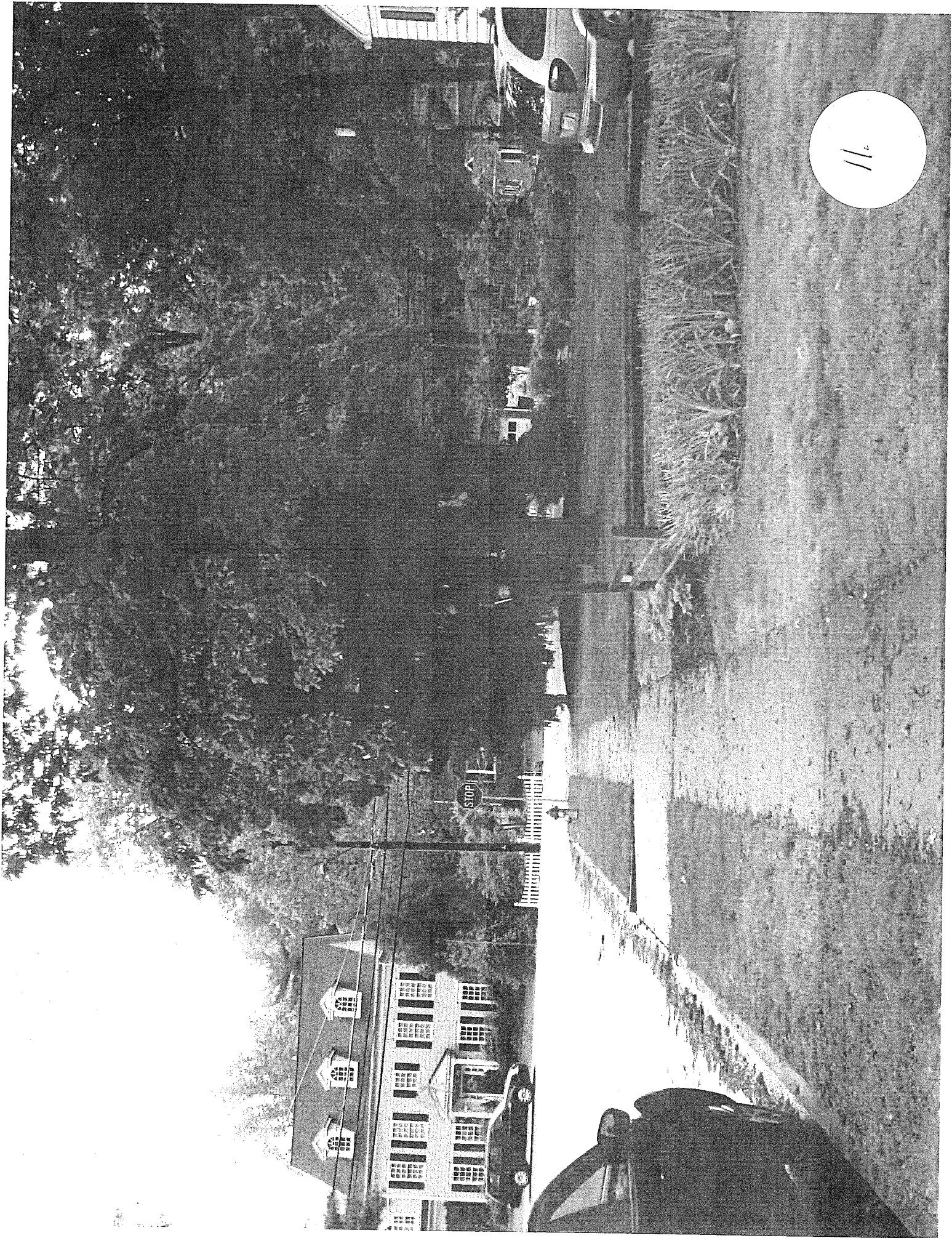






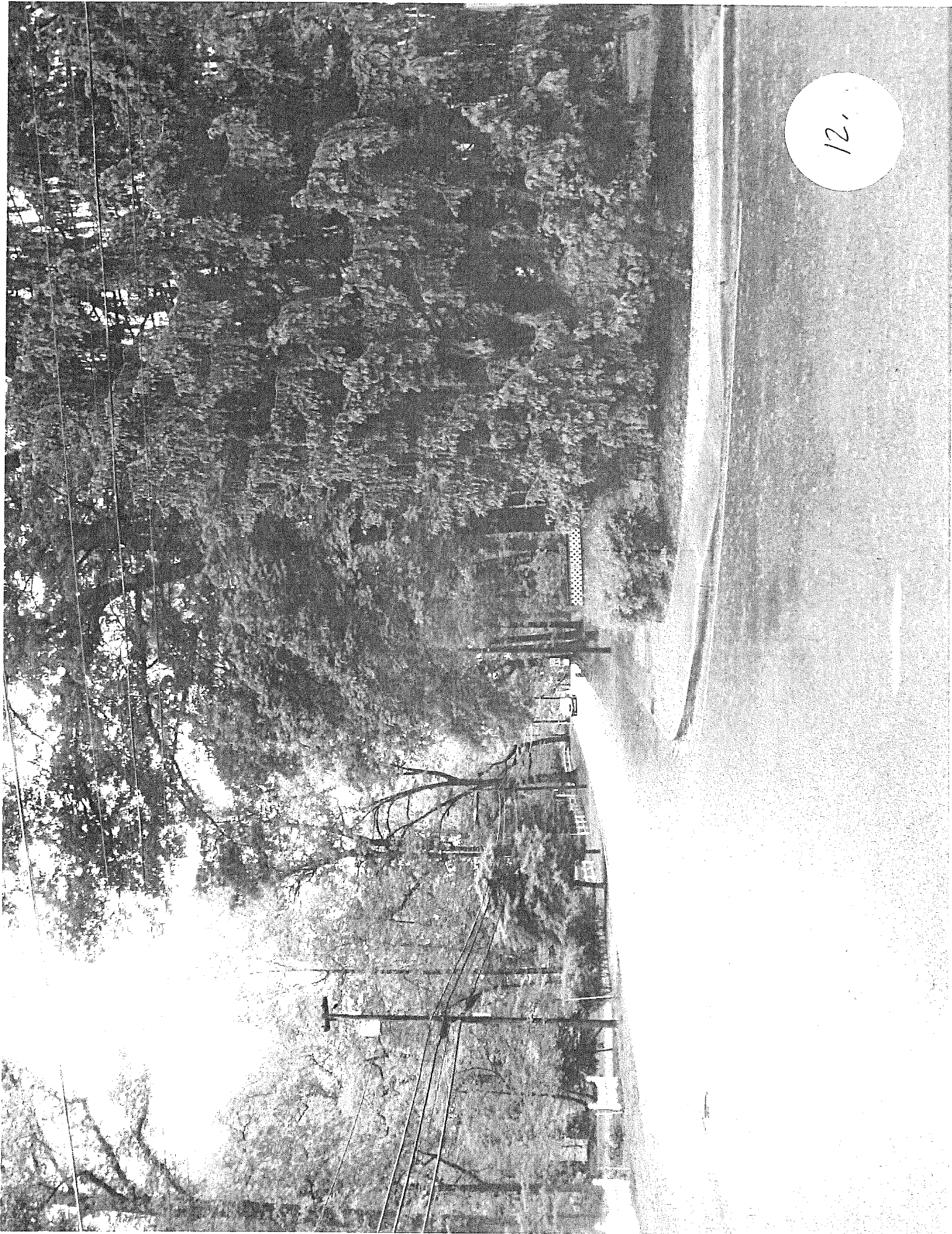


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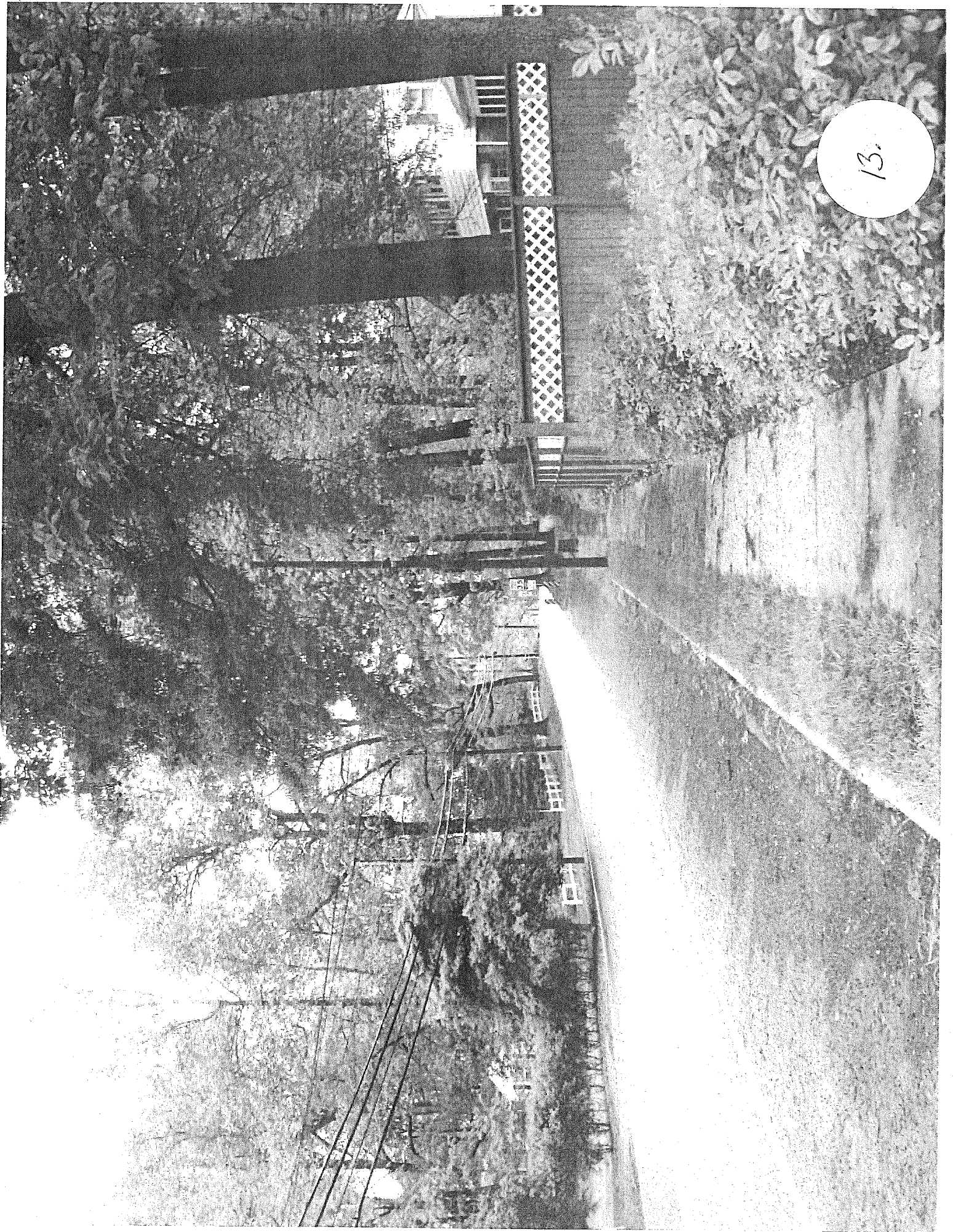


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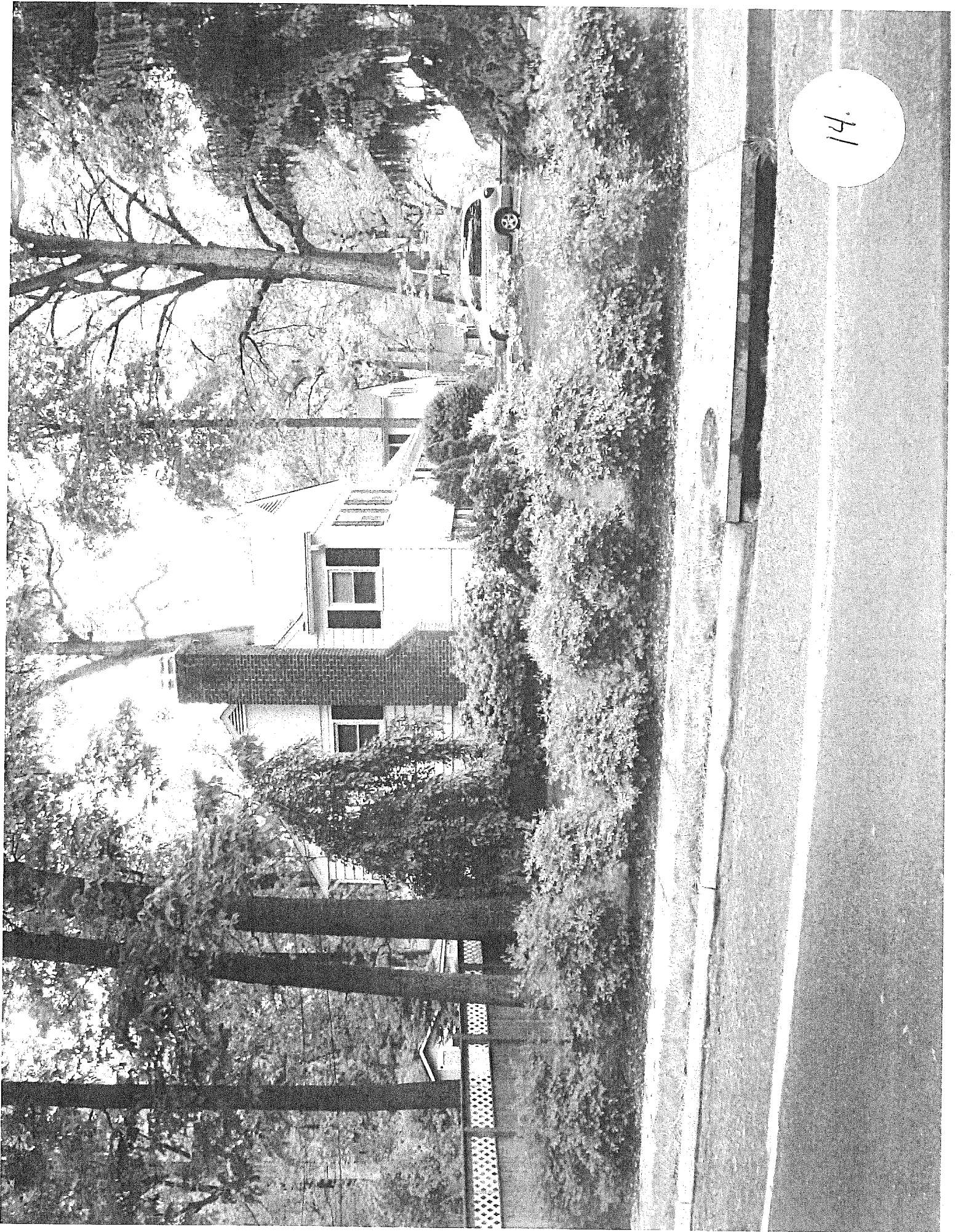


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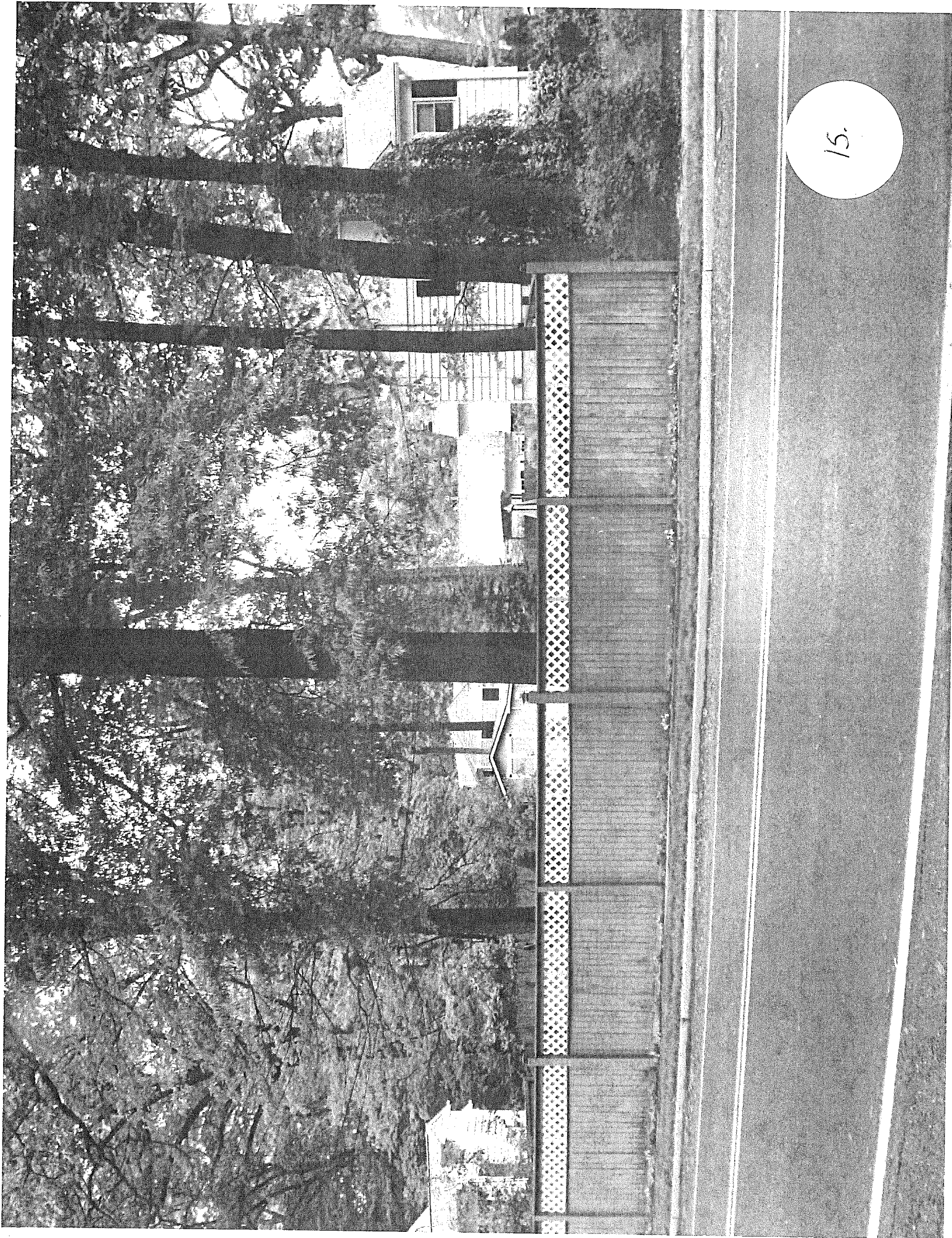


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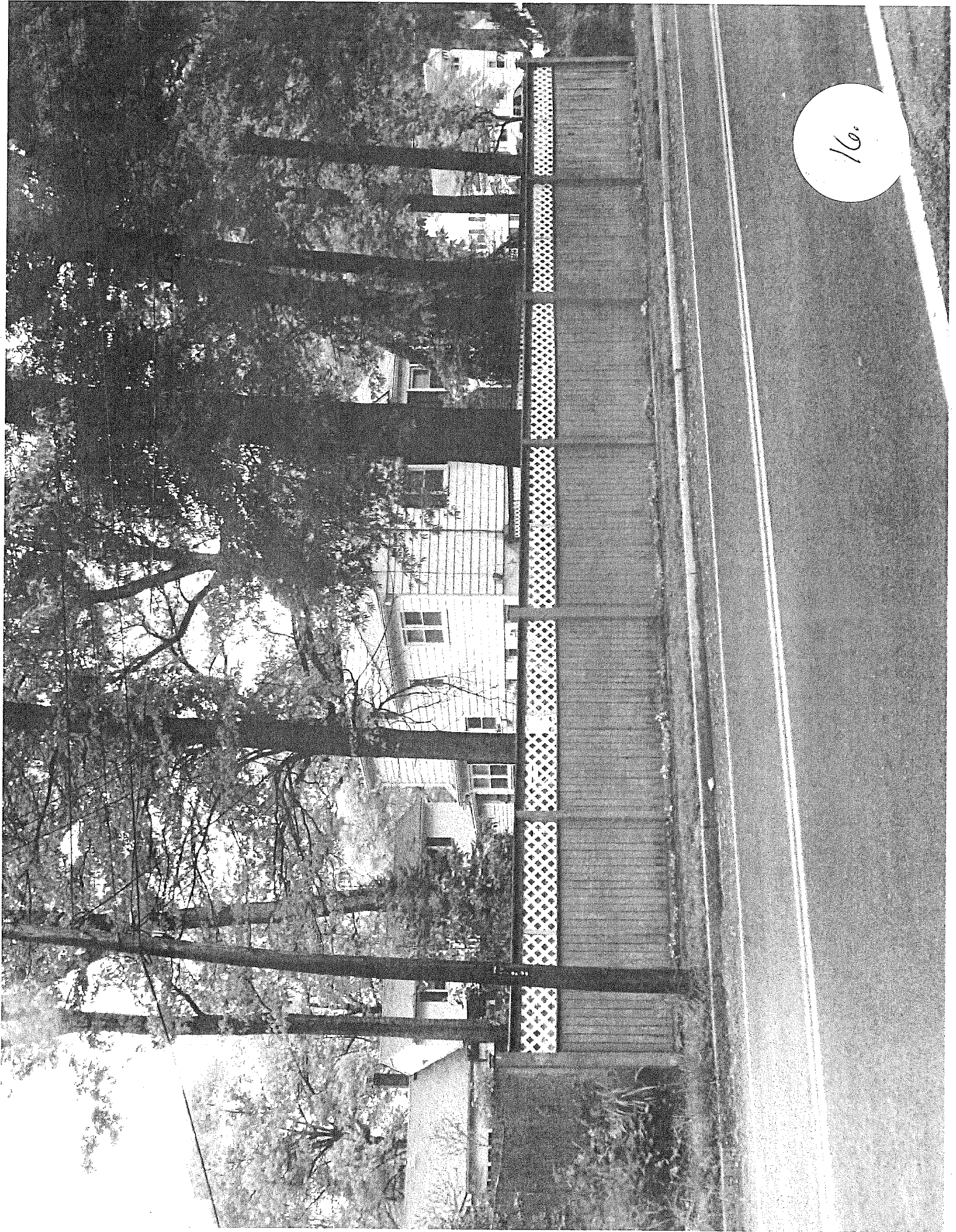


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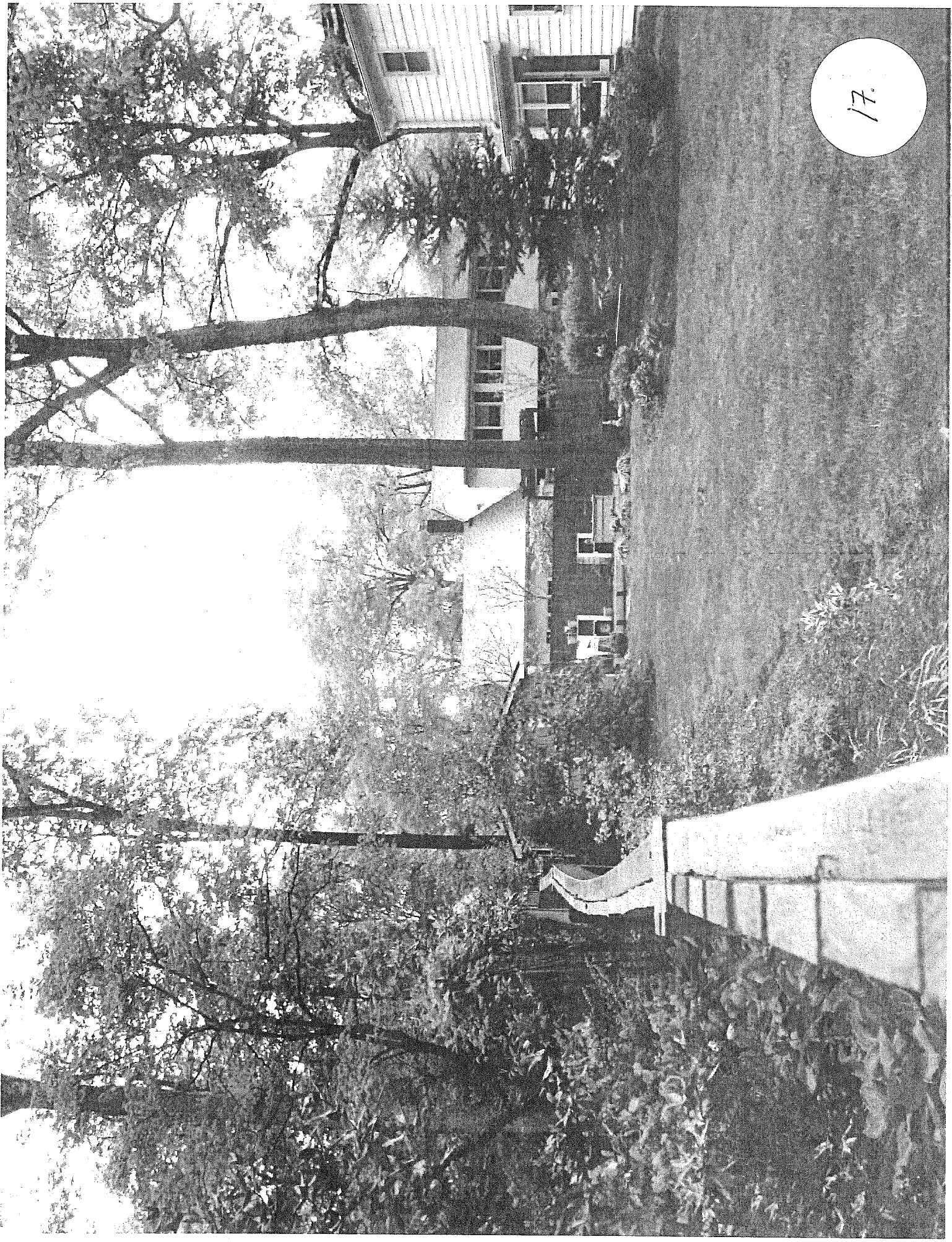


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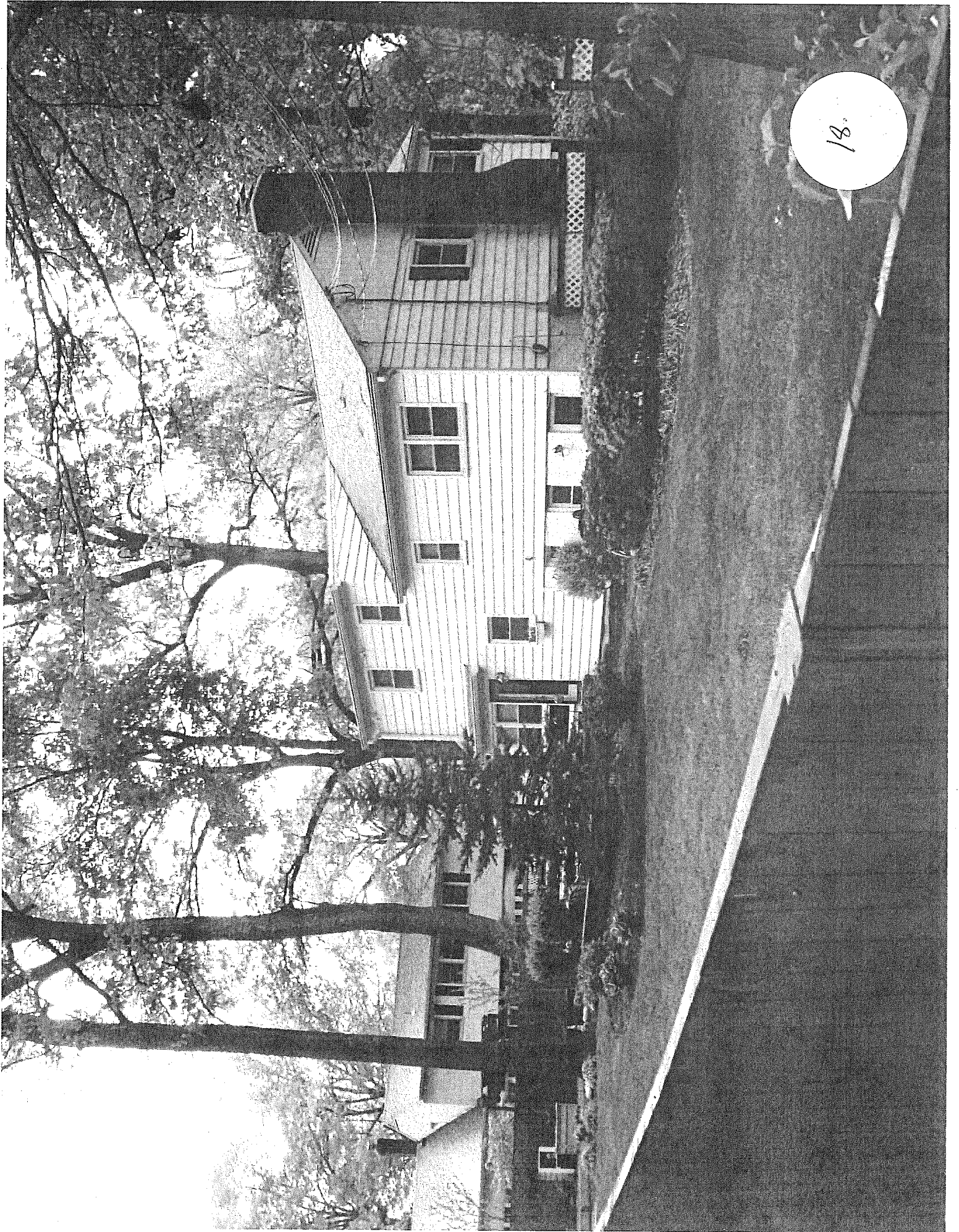




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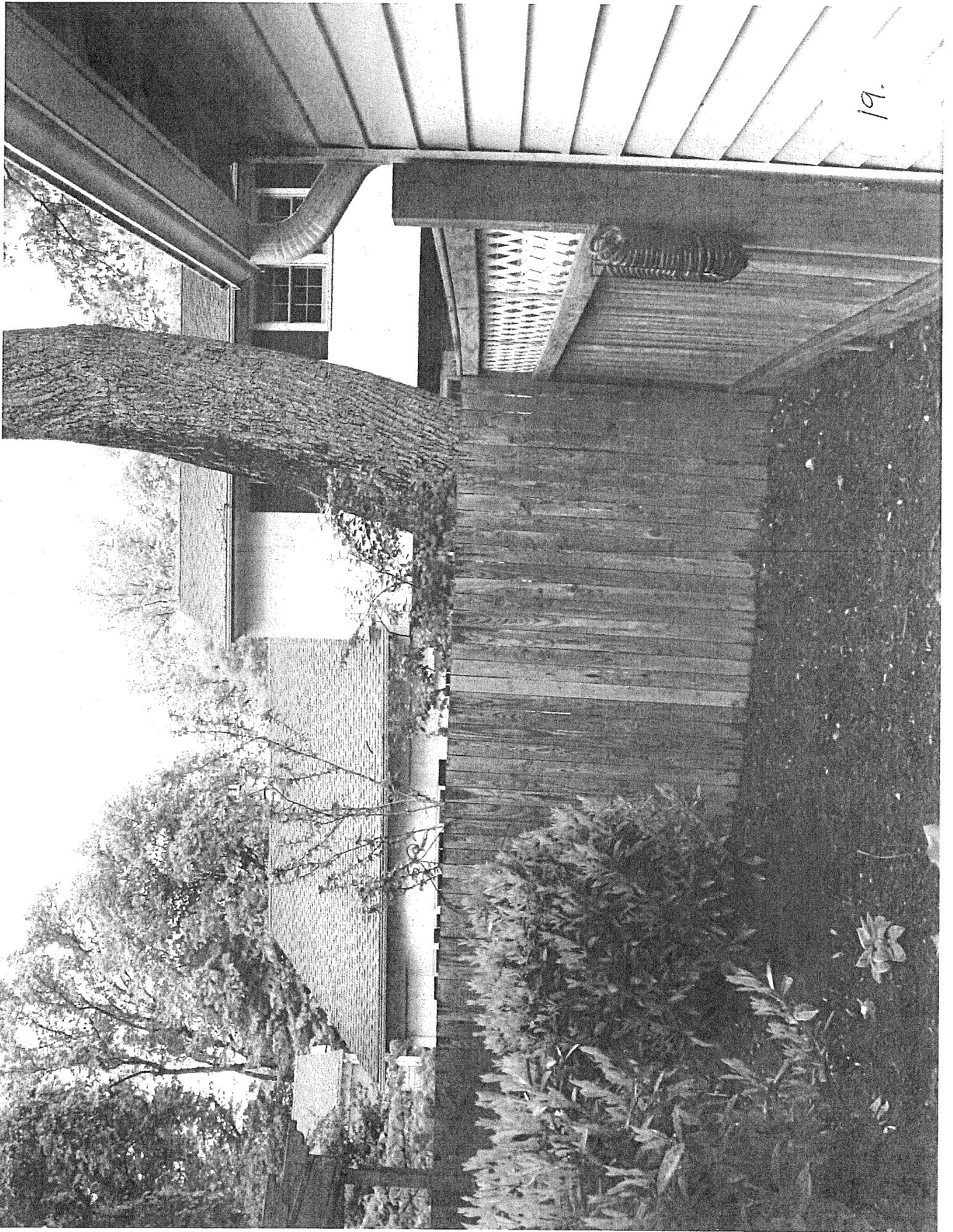




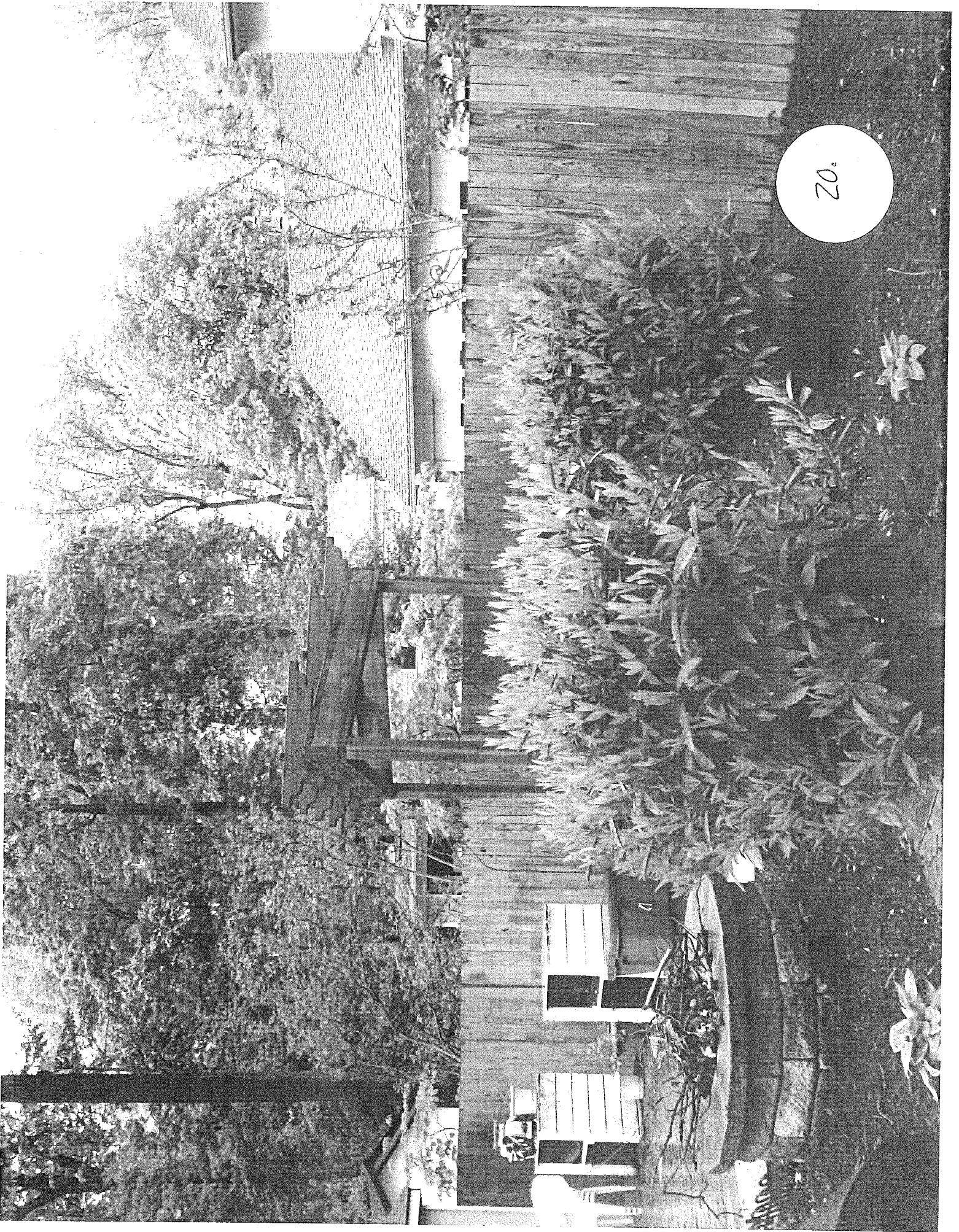


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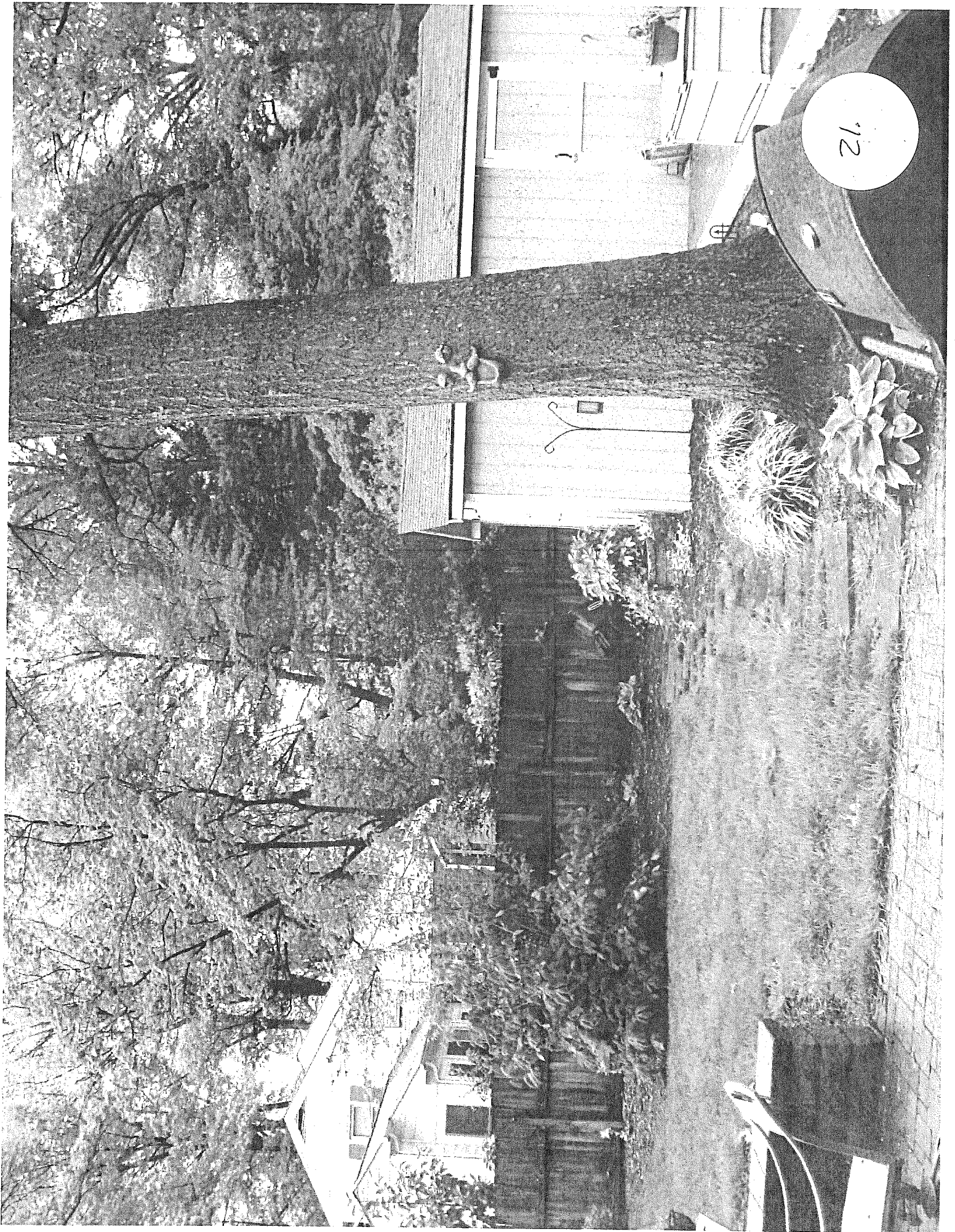




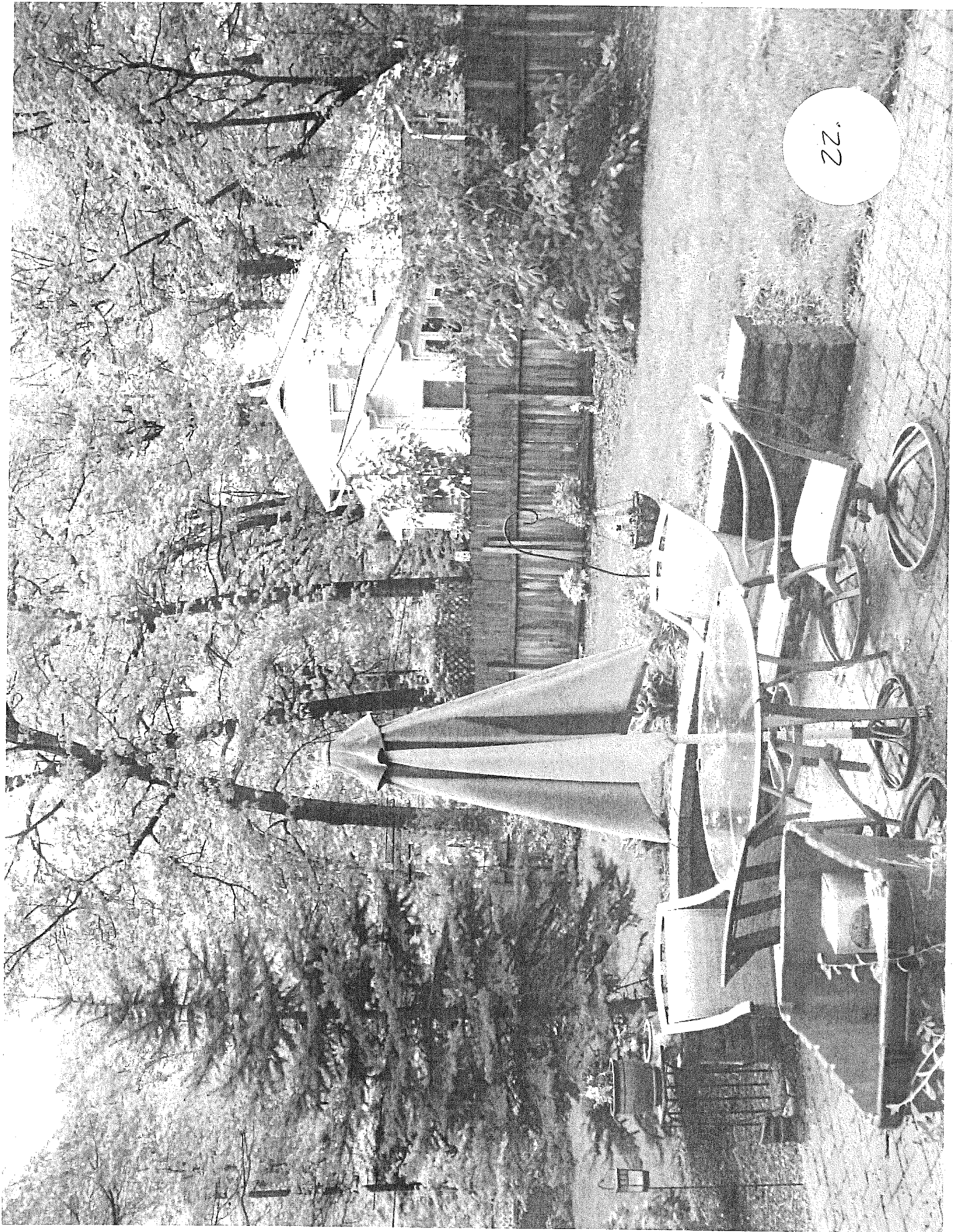




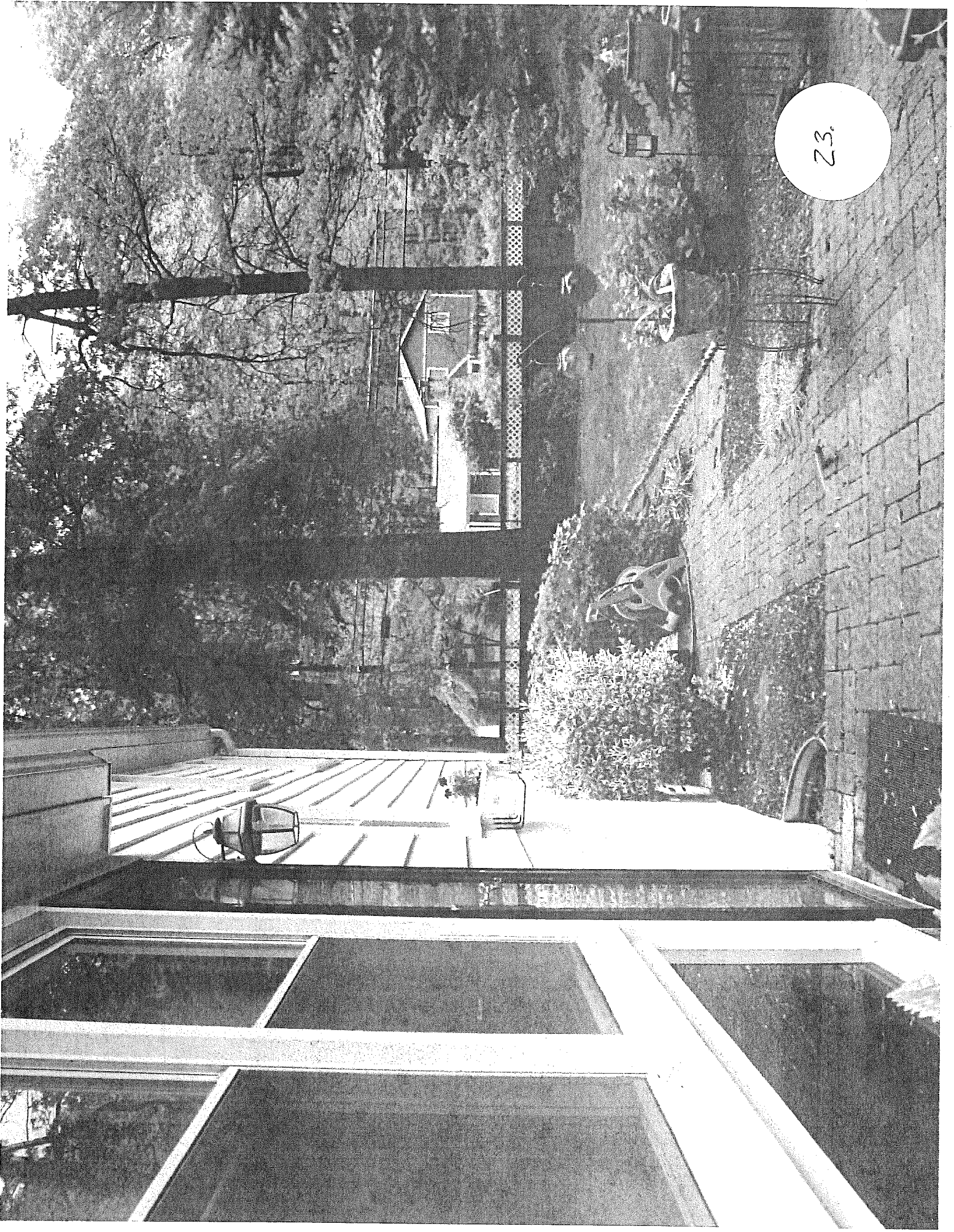
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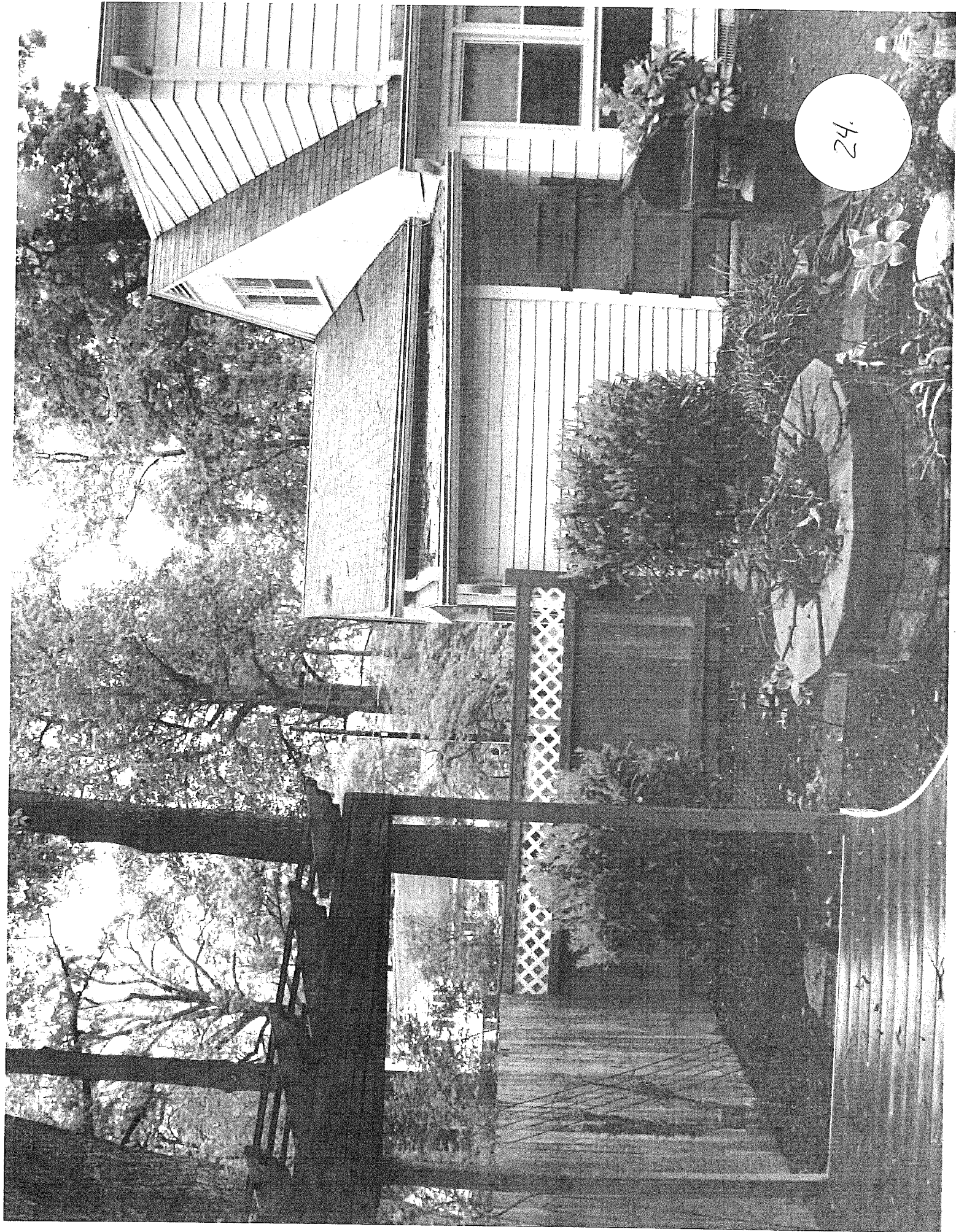






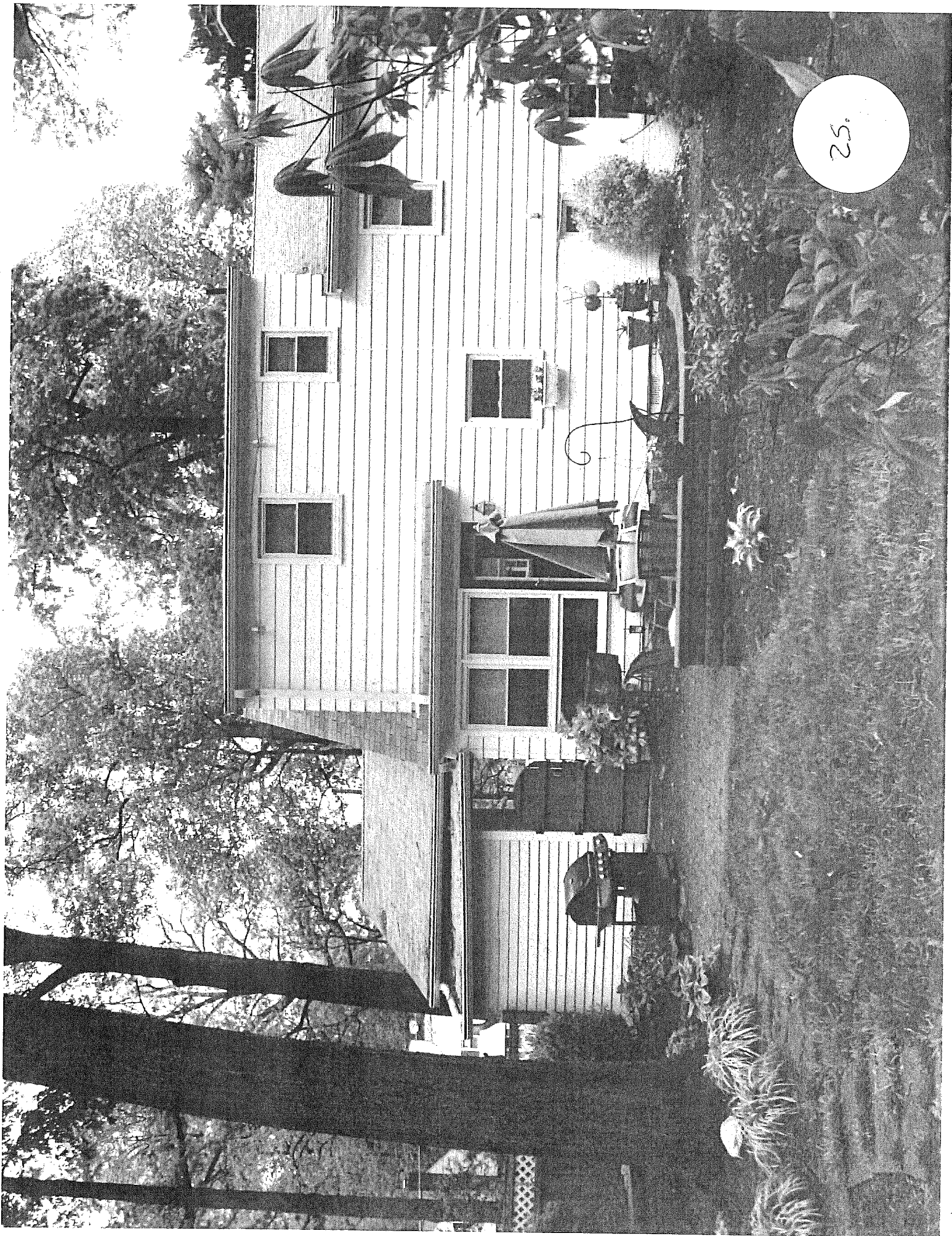




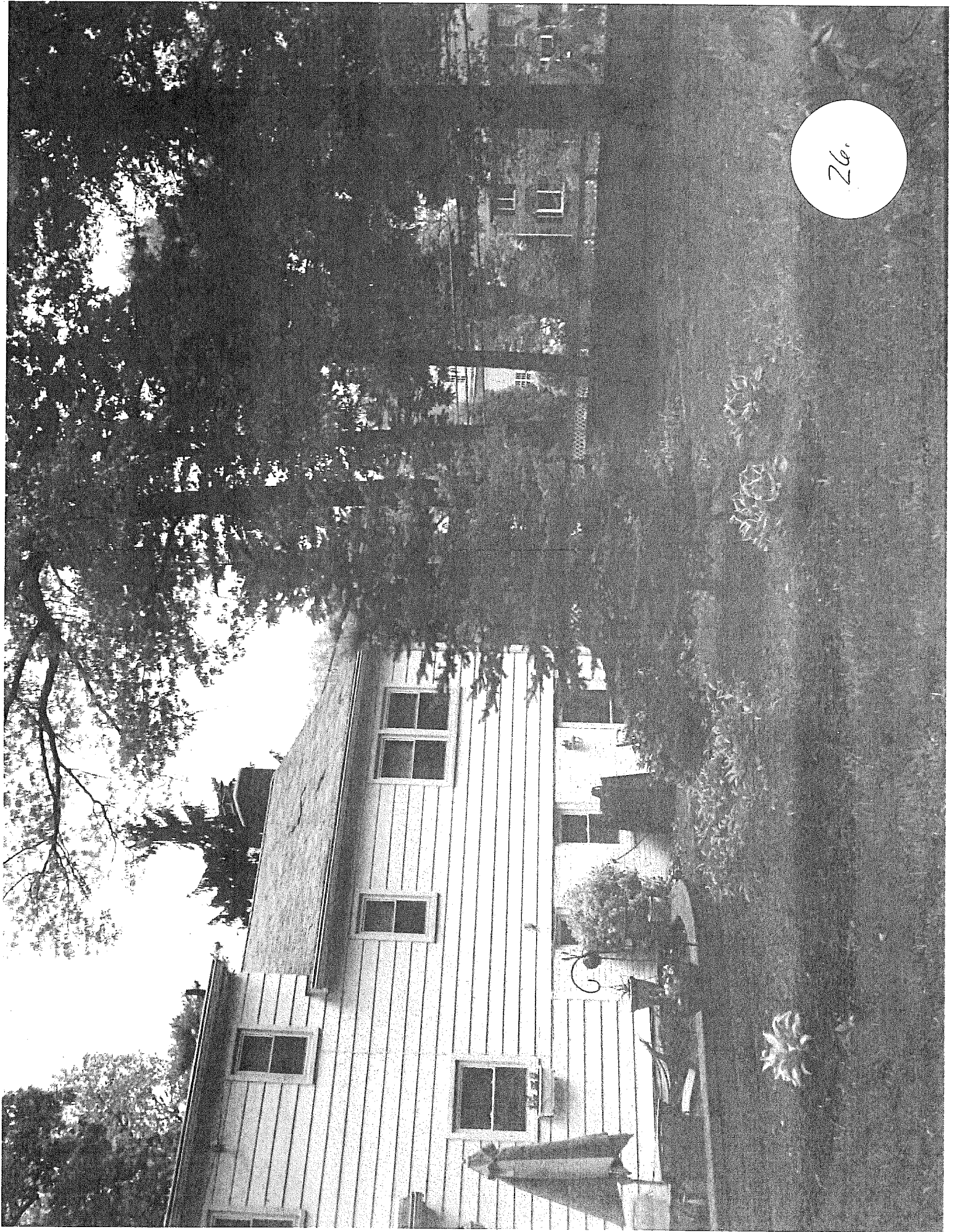




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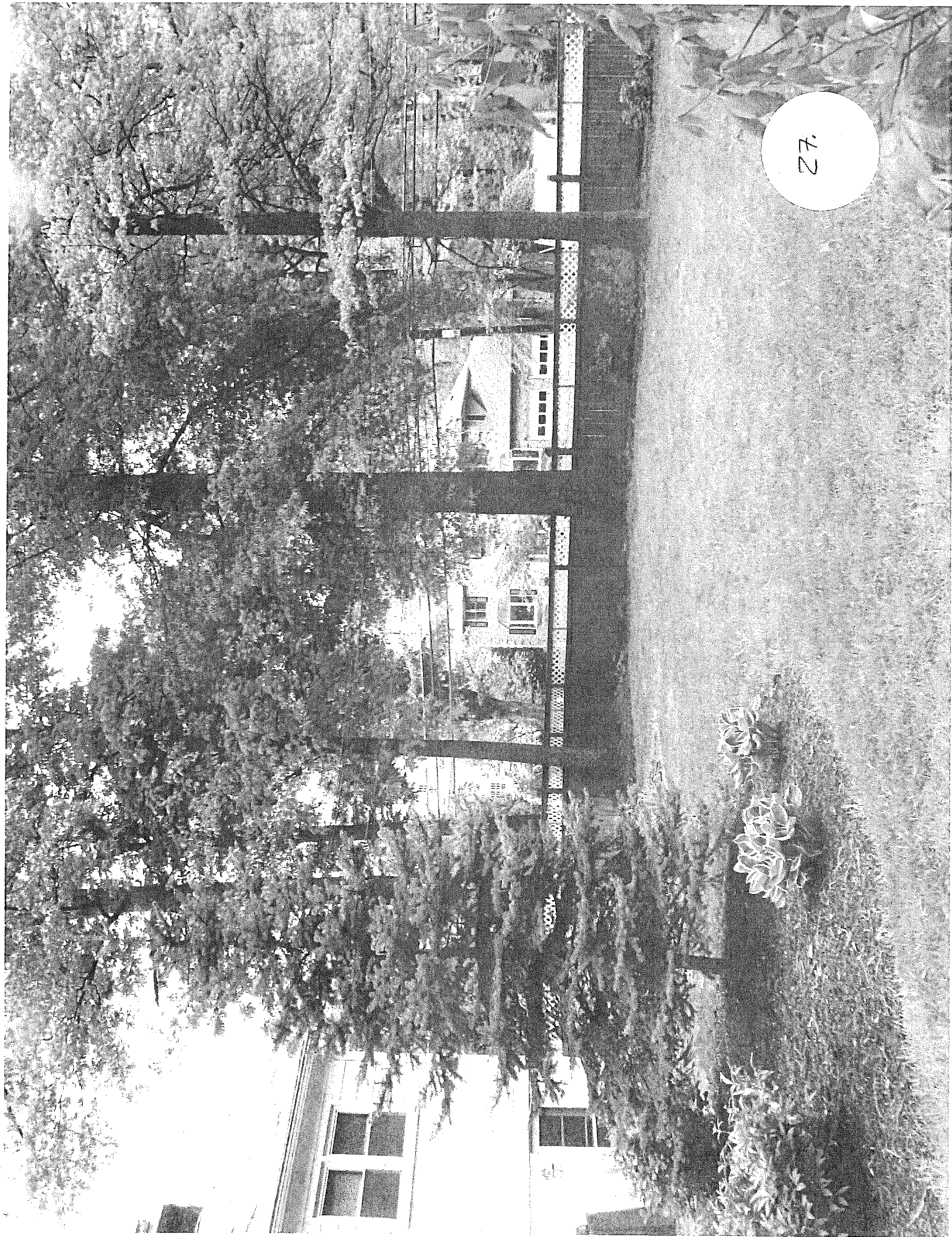




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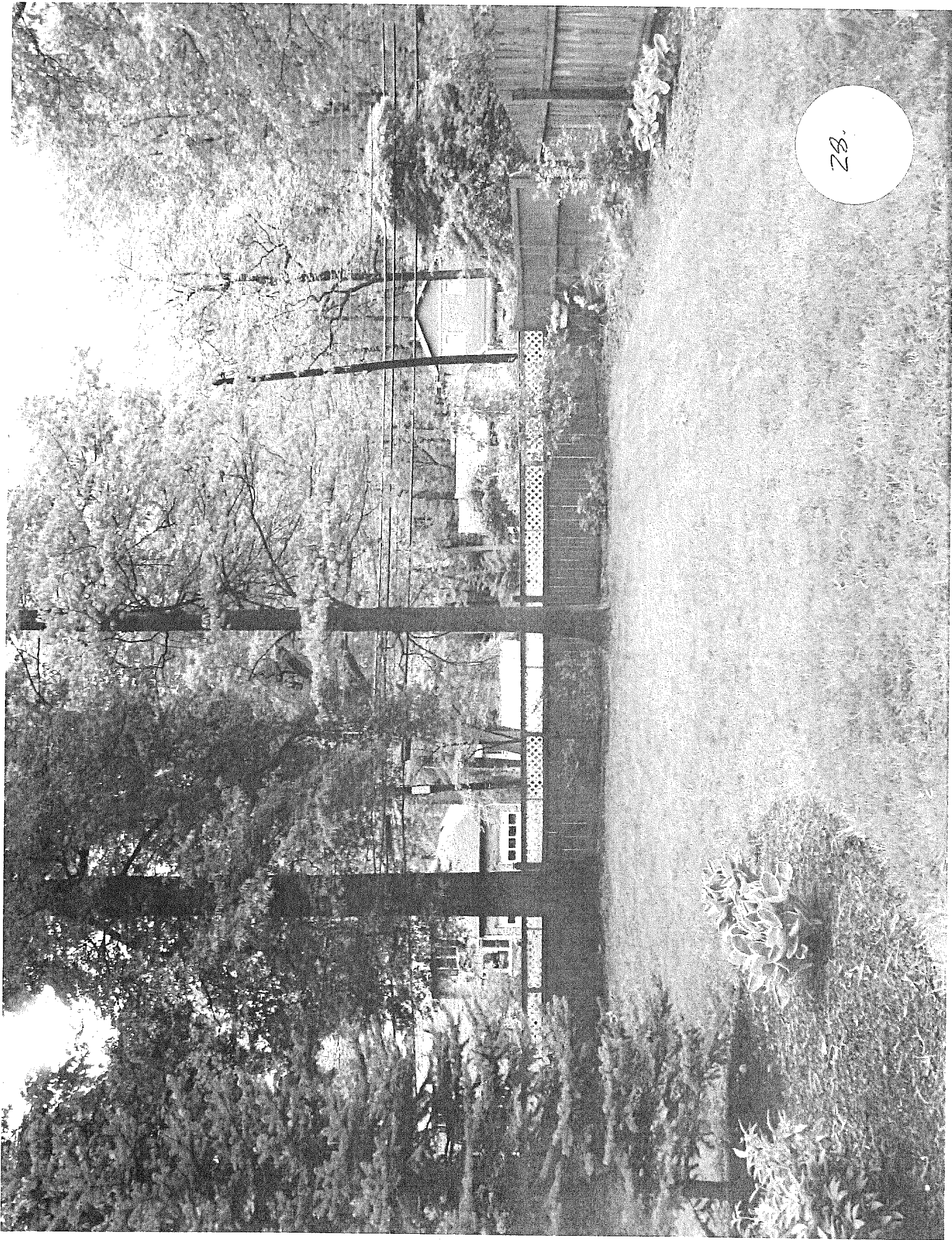


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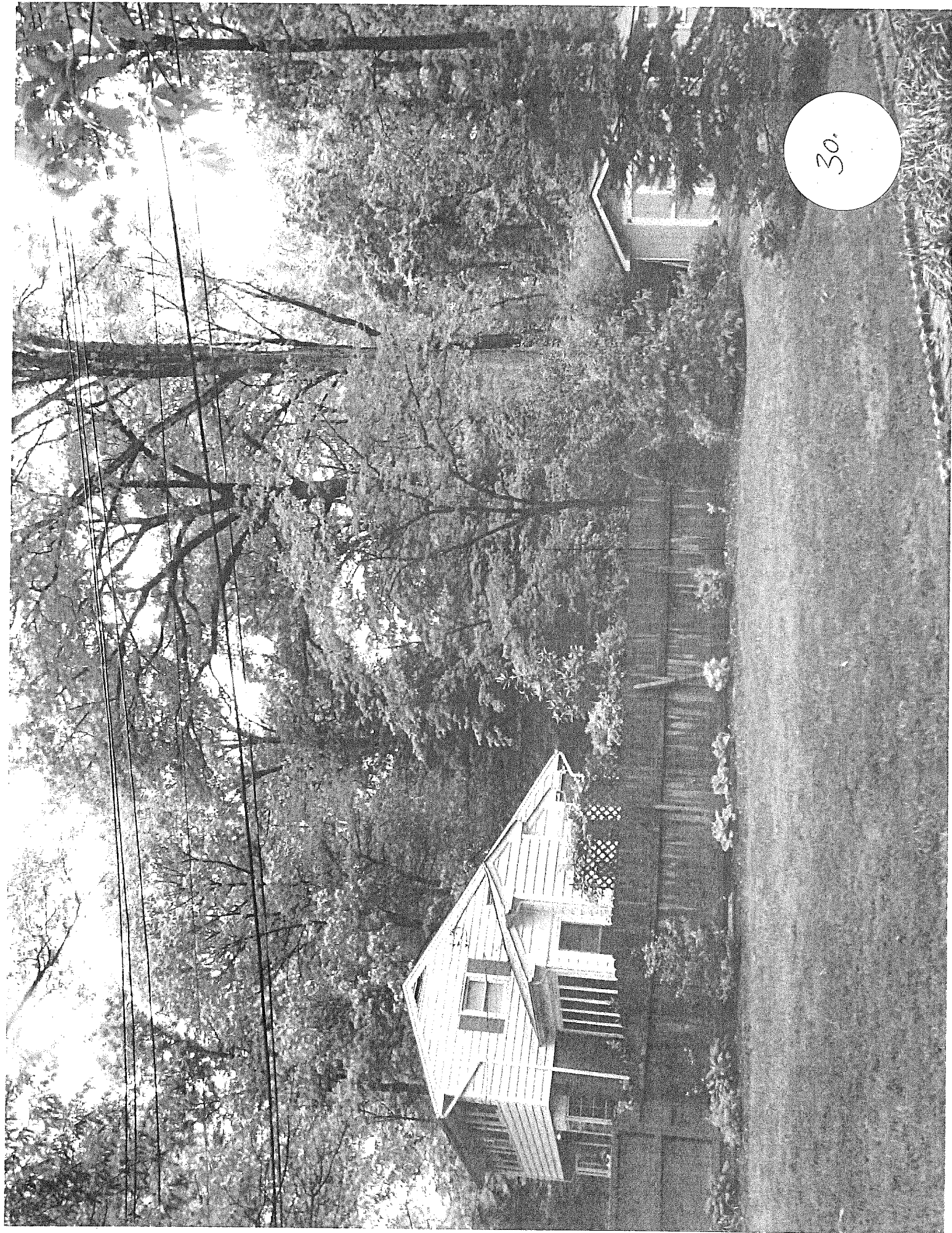




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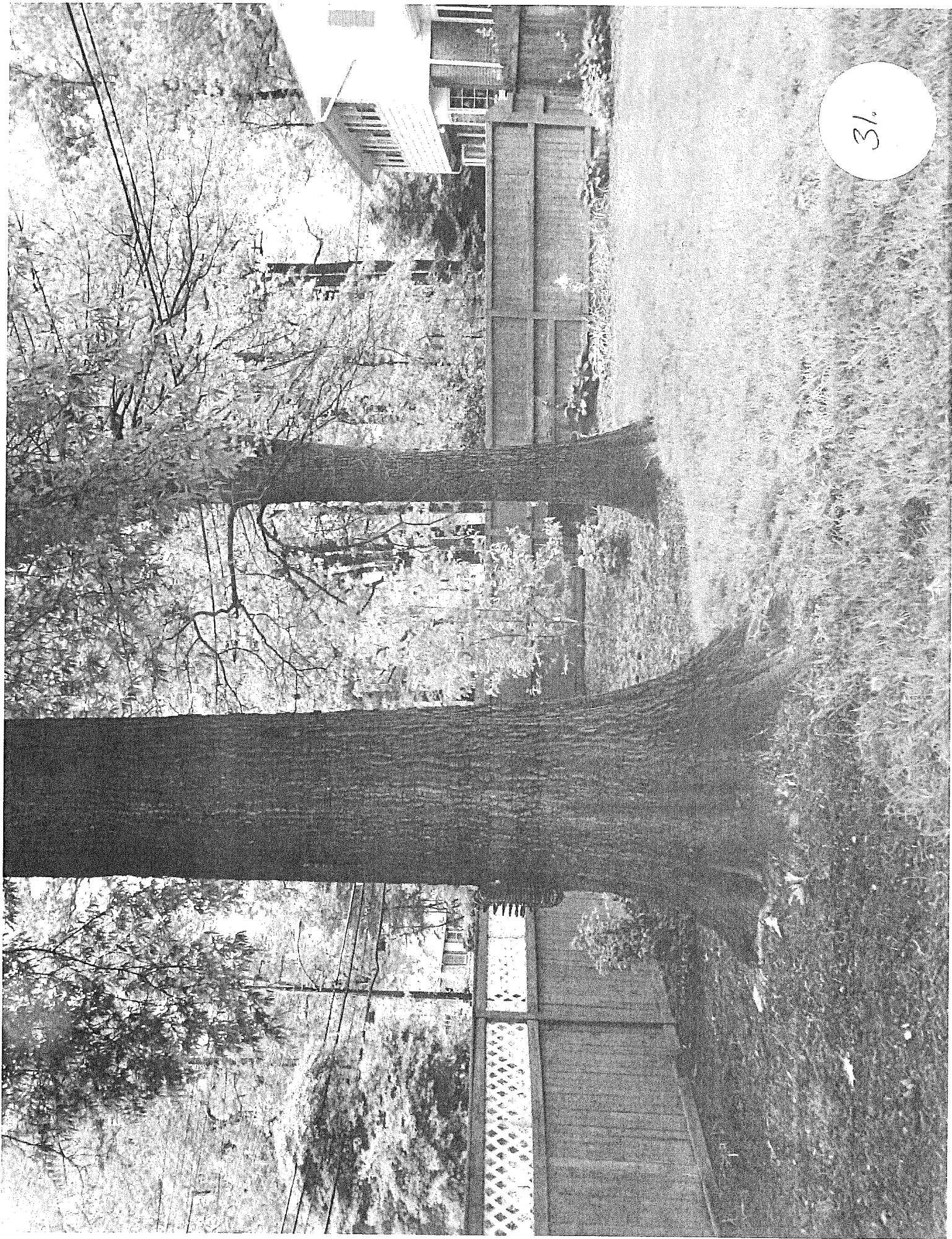








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## DESCRIPTION OF THE APPLICATIONS

The applicants are requesting approval of two separate special permits. The first request is to allow a reduction to minimum yard requirements based on error in building location to permit accessory storage structure, a ten foot high shed with attached roofed deck, a pergola, to remain 2.4 feet from the side lot line and 1.4 feet from the rear lot line.

### Special Permit Request #1

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
<b>Special Permit Request #1</b>	Accessory Storage Structure (Shed) with attached roofed deck (Pergola)	Side	12.0 feet	2.4 feet	9.6 feet	80%
		Rear	10.0 feet	1.4 feet	8.6 feet	86%

\* Minimum yard requirement per Section 3-307 and 10-104.

The second special permit request is to permit an existing fence greater than 4.0 feet in height to remain in the front yard of a corner lot. The 6.0 foot high frame wood fence is located in the front yard facing Shreve Road. The Zoning Ordinance currently permits fences 4.0 feet in height by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height. The Zoning Ordinance permits fences up to 7.0 feet in height in the side and rear yards.

### Special Permit Request #2

	Structure	Yards	Height Permitted By right	Maximum Height Requested	Modification Requested
<b>Special Permit Request #2</b>	Fence	Front	4.0 feet	6.0 feet	2.0 feet

## EXISTING SITE DESCRIPTION

The 13,735 square-foot property is a corner lot with two front yards; one along Shreve Road and the other along Shelby Lane. Access to the site is provided from Shelby Lane to a carport located on the northern side of the dwelling. The above referenced shed is located in the northwestern quadrant of the site. The yard contains existing



mature trees and shrubs. The rear yard contains an existing open deck with an associated roofed deck (pergola), all of which is attached to the accessory storage structure. Associated brick patio, walkways and a fire pit are also located within the rear yard. An 8.0 foot tall accessory storage structure is located adjacent to the carport structure.

Fencing ranges in height from 2.0 feet to 6.0 feet and extends along the northern side lot line, along the rear lot line and within the front yard along Shreve Road. Fencing connects to the existing dwelling to enclose the yard. Fencing adjacent to Shreve Road, within the front yard, is adjacent to an existing 8.0 foot wide easement for street purposes, a slight portion of which the fence encroaches into.

#### CHARACTER OF THE AREA

	Zoning	Use
North	R-1	Single Family Detached Dwellings
South	R-1	Single Family Detached Dwellings
East	R-1	Single Family Detached Dwellings
West	R-1	Single Family Detached Dwellings

#### BACKGROUND

The dwelling was constructed in 1957. Records indicate the house was remodeled in 2006.

A copy of the special permit plat entitled "Variance and Special Permit Plat, for Lot 13, Shrevewood" prepared by GeoEnv Engineers, dated December 19, 2012, as revised through December 21, 2012, is included at the front of the staff report.

Following the adoption of the current Ordinance, the BZA has heard the following variance applications in the vicinity of the application parcel:

- Special Permit (SP) 2003-PR-054 was approved September 19, 2006 at Tax Map 49-2 ((01)) 121, zoned R-3, at 2747 Oldewood Drive to permit reduction of minimum yard requirements based on error in building location to permit deck and dwelling to remain 2.5 feet with eave 1.5 feet from side lot line and accessory structures to remain 0.0 feet and 1.0 feet from side lot line.
- Variance (VC) 2003-PR-194 was denied at Tax Map 49-2 ((01)) 121, zoned R-3, at 2747 Oldewood Drive to permit construction of fence greater than 4.0 feet in height



in front yard and 7.0 feet in height in side and rear yards and storage structure exceeding 200 square feet in gross floor area.

- Special Permit (SP) 2008-PR-034 was approved June 17, 2008 at Tax Map 49-2 ((01)) 4B, zoned R-3, at 2537 Gallows Road to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 6.6 feet from rear lot line.

## **ZONING ORDINANCE REQUIREMENTS (See Appendix 4)**

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Sect. 8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard
- Sect. 10-104 Location Regulations

This special permit is subject to Sects. 8-006, 8-903, 8-914 and 8-923 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 4. Subject to development conditions, the special permit must meet these standards.

## **CONCLUSION**

If it is the intent of the BZA to approve this application, staff suggests the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Zoning Ordinance Provisions



**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2012-PR-069**

**February 6, 2013**

1. This special permit is approved for the location of fences in the front yards, a maximum 6.0 feet in height as shown on the special permit plat, and an accessory storage structure (shed) with attached roofed deck as shown on the plat prepared by GeoEnv Engineers dated December 19, 2012, as revised through December 21, 2012, signed by Ibrahim A. Chehab, Professional Engineer, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.



Application No.(s): SP 2012-PR-069  
 (county-assigned application number(s), to be entered by County Staff)

## SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: January 10, 2013  
 (enter date affidavit is notarized)

I, George C. Sales, do hereby state that I am an  
 (enter name of applicant or authorized agent)

(check one) ☒ applicant  
☐ applicant's authorized agent listed in Par. 1(a) below

116326

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE**,\*\* each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
George C. Sales	2622 Shelby Lane, Falls Church, VA 22043	Applicant/Agent for the Title Owners
Christopher A. Harris	700 Myrtle Ave., #230, Monrovia, CA 91016	Title Owner
Abigail M. Harris	700 Myrtle Ave., #230, Monrovia, CA 91016	Title Owner

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s):

SP 2012-PR-069  
(county-assigned application number(s), to be entered by County Staff)

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 10, 2013  
(enter date affidavit is notarized)

116326

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.  
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.  
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.



Application No.(s):

SP 2012-PR-069  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 10, 2013  
(enter date affidavit is notarized)

116 326

- 1(c). The following constitutes a listing\*\*\* of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

(check if applicable) ☐ The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 10, 2013  
(enter date affidavit is notarized)

116374

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.



Application No.(s):

SP 2012-PR-069  
(county-assigned application number(s), to be entered by County Staff)

Page Five

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 10, 2013  
(enter date affidavit is notarized)

116326

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)**

NONE

**(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)**

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

CSales

(check one)

☒ Applicant

☐ Applicant's Authorized Agent

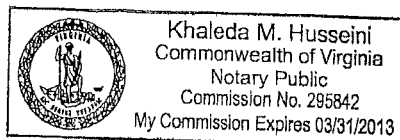
George C. Sales, Applicant/Agent to Title Owners  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 10 day of Jan 20 13, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]

Notary Public

My commission expires: 03.31.2013



RECEIVED  
Department of Planning & Zoning  
MAY 18 2012  
Zoning Evaluation Division

## **Statement of Justification**

Re: Special Permit- Proposed Side One Story Addition, Rear Deck, & Front Porch  
George Sales  
2622 Shelby Lane  
Falls Church VA, 22043

1. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard. These structures are to be attached to the front, side, and rear of the existing house.
2. This special permit shall only apply to the proposed front porch, rear deck, and single story side addition- encroaching into the side lot property line- in an R-3 zone within 6.3'feet. The existing house is located on a corner lot, positioned closer to the side and rear property lines than some of the neighboring dwellings.
3. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. The proposed floor area is 426 SQ. Feet- for a total proposed floor area of 1,404 SQ. Feet.
4. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site. The proposed floor area ratio to the existing dwelling will be 0.102 percent.
5. The proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The current home is a two-story split level structure. The additions in reference are only an extension of the existing single-story portion of the existing house. Thus creating less of a "bulky" look on the current lot. The building will be construction with materials of good quality, brick and siding to match, and a finished façade that is pleasing esthetically.



6. The proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of the significant trees as determined by the Director. Approximately 6 neighboring houses have similar single-story structures located on the sides of their existing dwellings. These proposed additions would certainly maintain the same esthetics and character of the existing community. The homeowner has reached out to surrounding members of the community and received support for the proposed work. The proposed structure is only an extension of the first level, and will not be intrusive in height or bulk.
7. The proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion and storm water runoff. The neighborhood is a quiet-friendly neighborhood. The proposed additions are meant to be as least as intrusive as possible to neighboring properties. The proposed deck and porch are intended for the enjoyment and relaxation on the property in the early evening hours, and to enhance the front and rear facades esthetically. The main addition is for adding much needed space on the main level of the home. The objective is to add a much desired dining room, bathroom and study. The purpose of the main structure's side addition is to create more space around the existing kitchen and living room. Putting the proposed addition on the opposite side of the existing residence, would not help achieve the much needed added space at the main part of the existing residence and would not look good esthetically.
8. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

RECEIVED  
Department of Planning & Zoning  
SEP 10 2012  
Zoning Evaluation Division

STATEMENT OF JUSTIFICATION (Revision #1)

George Sales  
2622 Shelby Lane  
Falls Church, VA 22043-3426

1. (Section 5.08) There will be no hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations parts 116.4, 302.4, and 355; hazardous waste as set forth in Commonwealth of Virginia / Department of Waste Management Regulations VR 672-10-1-Virginia Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site. There are no existing or proposed storage tanks or containers at this site.
2. (Section 5.09) The proposed development conforms to the provisions of all applicable ordinances, regulations, and adopted standards.
3. (Section 930.00) The resulting gross floor area of the addition to the existing principal structure is not greater than 150% of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150% of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of the single family detached dwelling is to be removed, no more than fifty percent (50%) of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of a single family dwelling, as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any detached garage. The existing GFA is 978 SF. The proposed GFA is an addition of 426 SF. This creates a new total GFA of 1,404 SF. The resulting GFA is 143.5% of the original GFA and meets the standard above.
4. 8-914: The following statements are in relation to the shed and roofed deck (trellis)
  - a. The error exceeds ten (10) percent of the measurement involved, and
  - b. The noncompliance was done in good faith, or through no fault of the property owner, or was a result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such required, and
  - c. Such reduction will not impair the purpose and intent of this Ordinance, and
  - d. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and



- e. It will not create an unsafe condition with respect to both other property and public streets
- f. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
- g. The reduction will not result in an increase in density or floor area ratio that permitted by the applicable zoning district regulations.

5. 8-923 The following statements are in relation to the fence:

- 1. The fence does not exceed the maximum height of 6 fence.
- 2. The fence shall meet the site distance requirements contained in Section 2-505.
- 3. The fence is warranted based on the orientation and location of the principal structure, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
- 4. The fence height is in character with the existing on site development and is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk plane, scale, and historic designations.
- 5. The fence height will not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
- 6. These criteria are satisfied with the current fence height.

STATEMENT OF JUSTIFICATION (Revision #2)

RECEIVED  
Department of Planning & Zoning  
SEP 26 2012  
Zoning Evaluation Division

George Sales  
2622 Shelby Lane  
Falls Church, VA 22043-3426

1. (Section 5.08) There will be no hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations parts 116.4, 302.4, and 355; hazardous waste as set forth in Commonwealth of Virginia / Department of Waste Management Regulations VR 672-10-1-Virginia Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site. There are no existing or proposed storage tanks or containers at this site.
2. (Section 5.09) The proposed development conforms to the provisions of all applicable ordinances, regulations, and adopted standards.
3. (Section 930.00) The resulting gross floor area of the addition to the existing principal structure is not greater than 150% of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150% of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of the single family detached dwelling is to be removed, no more than fifty percent (50%) of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of a single family dwelling, as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any detached garage. The existing GFA is 978 SF. The proposed GFA is an addition of 426 SF. This creates a new total GFA of 1,404 SF. The resulting GFA is 43.5% of the original GFA and meets the standard above.
4. 8-914: The following statements are in relation to the shed and roofed deck (trellis)
  - a. The error exceeds ten (10) percent of the measurement involved, and
  - b. The noncompliance was done in good faith, or through no fault of the property owner, or was a result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such required, and
  - c. Such reduction will not impair the purpose and intent of this Ordinance, and
  - d. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and



- e. It will not create an unsafe condition with respect to both other property and public streets
- f. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
- g. The reduction will not result in an increase in density or floor area ration that permitted by the applicable zoning district regulations.

5. 8-923 The following statements are in relation to the fence:

- 1. The fence does not exceed the maximum height of 6 fence.
- 2. The fence shall meet the site distance requirements contained in Section 2-505.
- 3. The fence is warranted based on the orientation and location of the principal structure, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
- 4. The fence height is in character with the existing on site development and is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk plane, scale, and historic designations.
- 5. The fence height will not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
- 6. These criteria are satisfied with the current fence height.

**8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.



**8-903 Standards For All Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914

**Provisions for Approval of Reduction to the Minimum Yard Requirements  
Based on Error in Building Location**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 1/2" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
  - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of well and/or septic field.
  - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. Seal and signature of professional person certifying the plat.



In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

**8-923      *Provisions for Increase in Fence and/or Wall Height in Any Front Yard***

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3l of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.



- D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
  - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of a well and/or septic field.
  - I. If applicable, existing gross floor area and floor area ratio.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. The location, type and height of any existing and proposed landscaping and screening.
  - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.